THE NATIONAL ARCHIVES

FEDERAL REGISTER

VOLUME 5 NUMBER 113

Washington, Tuesday, June 11, 1940

Rules, Regulations, Orders

TITLE 7—AGRICULTURE

CHAPTER VII—AGRICULTURAL ADJUSTMENT ADMINISTRATION

1938 AGRICULTURAL CONSERVATION PROGRAM BULLETIN

SUPPLEMENT NO. 29

Pursuant to the authority vested in the Secretary of Agriculture under sections 7 to 17, inclusive, of the Soil Conservation and Domestic Allotment Act, as amended, the 1938 Agricultural Conservation Program Bulletin, as amended,[1] is hereby further amended as follows:

Section XV is amended by the addition of the following subsection:

"C. Correction of Errors

"Notwithstanding any other provision of this section, where the Administrator finds that an error in a county or State office resulted in a yield or productivity index for the farm which is substantially less than that which would otherwise be determined, he may authorize the correction of such yield or productivity index without requiring a redetermination of other farm yields or productivity indexes in the county, unless such error has resulted in farm yields or productivity indexes for other farms in the county which are substantially higher that they otherwise would have been."

Done at Washington, D. C., this 8th day of June 1940. Witness my hand and the seal of the Department of Agriculture.

[SEAL] H. A. WALLACE,
Secretary of Agriculture.

[F. R. Doc. 40-2301; Filed, June 10, 1940; 10:45 a. m.]

[1] 4 F.R. 4224.

TITLE 8—ALIENS AND CITIZENSHIP

CHAPTER I—IMMIGRATION AND NATURALIZATION SERVICE

[Supplement 5,[1] General Order C-2]

DISCONTINUANCE OF PLATTSBURG MUNICIPAL AIRPORT AS A DESIGNATED PORT OF ENTRY FOR ALIENS ARRIVING BY AIRCRAFT

JUNE 7, 1940.

Pursuant to the authority contained in section 7 (d) of the Air Commerce Act of 1926 (Act of May 20, 1926, 44 Stat. 572; 49 U.S.C. 177 (d)), the designation of Plattsburg Municipal Airport, Plattsburg, N. Y., as a temporary port of entry for aliens arriving in the United States by aircraft is rescinded, effective at the close of business June 1, 1940.

Section 3.3 (b), Title 8, Code of Federal Regulations (Rule 3, subdivision A, paragraph 3 (b) of the Immigration Rules and Regulations of January 1, 1930, Edition of December 31, 1936) is amended by striking Plattsburg, N. Y., Plattsburg Municipal Airport from the list of temporary ports of entry for aliens arriving by aircraft.

[SEAL] FRANCES PERKINS
Secretary.

Approval recommended:

JAMES L. HOUGHTELING,
Commissioner of Immigration and Naturalization.

[F. R. Doc. 40-2300; Filed, June 10, 1940; 10:30 a. m.]

TITLE 10—ARMY: WAR DEPARTMENT

CHAPTER VII—PERSONNEL

PART 73—APPOINTMENT OF COMMISSIONED OFFICERS AND CHAPLAINS

APPOINTMENT IN MEDICAL, DENTAL, VETERINARY, AND MEDICAL ADMINISTRATIVE CORPS, REGULAR ARMY[2]

§ 73.1 *General procedure.* (a)[3] Appointees to fill vacancies occurring in the

[1] Supplement 4 appears at 4 F.R. 4751.
[2] § 73.1 (a) is amended.
[3] 5 F.R. 172.

CONTENTS

RULES, REGULATIONS, ORDERS

(Continued on next page)

FEDERAL REGISTER

Published daily, except Sundays, Mondays, and days following legal holidays by the Division of the Federal Register, The National Archives, pursuant to the authority contained in the Federal Register Act, approved July 26, 1935 (49 Stat. 500), under regulations prescribed by the Administrative Committee, approved by the President.

The Administrative Committee consists of the Archivist or Acting Archivist, an officer of the Department of Justice designated by the Attorney General, and the Public Printer or Acting Public Printer.

The daily issue of the FEDERAL REGISTER will be furnished by mail to subscribers, free of postage, for $1.25 per month or $12.50 per year; single copies 10 cents each; payable in advance. Remit money order payable to the Superintendent of Documents directly to the Government Printing Office, Washington, D. C.

CONTENTS—Continued

NOTICES

CONTENTS—Continued

Medical, Dental, Veterinary, or Medical Administrative Corps will be selected for each corps by competitive examination, provided that medical and dental internes who have completed a year's interneship in an Army hospital, and who are found qualified by the prescribed board and recommended for commission by the commanding officer of the hospital, and who are otherwise qualified, may be appointed without competitive examination upon the recommendation of The Surgeon General with the approval of the Secretary of War. (Sec. 4, 35 Stat. 67; 10 U.S.C. 93; sec. 24, 41 Stat. 774; 10 U.S.C. 92, 122, 123; 40 Stat. 397; 10 U.S.C. 125; sec. 4, 49 Stat. 506; 10 U.S.C. 522b; 49 Stat. 1902; 10 U.S.C. 151) [Par. 2, AR 605–20, W.D., Aug. 16, 1939, as amended by Cir. 58, W.D., June 5, 1940]

* * * * *

[SEAL] J. A. ULIO,
Brigadier General,
Acting The Adjutant General.

[F. R. Doc. 40-2299; Filed, June 10, 1940; 10:22 a. m.]

TITLE 14—CIVIL AVIATION

CHAPTER I—CIVIL AERONAUTICS AUTHORITY

[Amendment No. 57, Civil Air Regulations]

PART 60—AIR TRAFFIC RULES

REDESIGNATION OF RADIO FIXES, CONTROL ZONES OF INTERSECTION, AND AIRWAY TRAFFIC CONTROL AREAS

At a session of the Civil Aeronautics Authority held at its office in Washington, D. C. on the 7th day of June 1940.

Acting pursuant to the authority vested in it by the Civil Aeronautics Act of 1938, particularly sections 205 (a) and 601 (a) of said Act, and finding that its action is desirable in the public interest and is necessary to carry out the provisions of, and to exercise and perform its powers and duties under said Act, the Civil Aeronautics Authority hereby amends the Civil Air Regulations as follows:

Effective July 1, 1940, Part 60 of the Civil Air Regulations is amended as follows:

1. By amending § 60.22 to read as follows:

§ 60.22 *Control zones of intersection designation.* The radio range station of the Civil Aeronautics Authority located at each of the following cities is designated as the center of a control zone of intersection: Albany, N. Y.; Albuquerque, N. Mex.; Amarillo, Tex.; Belgrade, Mont.; Boston, Mass.; Billings, Mont.; Bismarck, N. Dak.; Burlington, Vt.; Charleston, S. C.; Cheyenne, Wyo.; Cincinnati, Ohio; Columbus, Ohio; Concord, N. H.; Corpus Christi, Tex.; Daytona Beach, Fla.; Denver, Colo.; Ellensburg, Wash.; El Paso, Tex.; Fargo, N. Dak.; Helena, Mont.; Houston, Tex.; Huron, S. Dak.; Indianapolis, Ind.; Jackson, Miss.; Jacksonville, Fla.; Kansas City, Mo.; Laramie, Wyo.; Louisville, Ky.; Memphis, Tenn.; Miami, Fla.; Minneapolis, Minn.; Nashville, Tenn.; Mobile, Ala.; New Orleans, La.; Northdalles, Oreg.; Oklahoma City, Okla.; Omaha, Nebr.; Pendleton, Oreg.; Portland, Oreg.; San Antonio, Tex.; Seattle, Wash.; Spokane, Wash.; Tallahassee, Fla.; Tampa, Fla.; Tulsa, Okla.; White Hall, Mont.; Wichita, Kans.

2. By amending § 60.23000 to read as follows:

§ 60.23000 *Green civil airway No. 1 (Seattle, Wash., to Boston, Mass.)* Seattle, Wash., radio range station; Easton, Wash., radio marker station; Ellensburg, Wash., radio range station; Ephrata, Wash., radio range station; Spokane, Wash., radio range station; Mullan Pass, Idaho, radio range station; Missoula, Mont., radio range station; Helena, Mont., radio range station; Belgrade, Mont., radio range station; Livingston, Mont., radio range station; Billings, Mont., radio range station; Custer, Mont., radio range station; Miles City, Mont., radio range station; Golva, N. Dak., radio range station; Dickinson, N. Dak., radio range station; Bismarck, N. Dak., radio range station; Jamestown, N. Dak., radio range station; Fargo, N. Dak., radio range station; Alexandria, Minn., radio range station; Minneapolis, Minn., radio range station; La Crosse, Wis., radio range station; Lone Rock, Wis., radio range station; Milwaukee, Wis., radio range station; Grand Rapids, Mich., radio range station; Lansing, Mich., radio range station; the intersection of the center lines of the on course signals of the north leg of the Detroit, Mich. (Wayne County Airport), radio range and the east leg of the Lansing, Mich., radio range; Detroit, Mich. (Wayne County Airport), radio range station; Buffalo, N. Y., radio range station; the intersection of the center lines of the on course signals of the east leg of the Buffalo, N. Y., radio range and the southwest leg of the Rochester, N. Y., radio range; Syracuse, N. Y., radio range station; Utica, N. Y., radio range station; Albany, N. Y., radio range station; Springfield, Mass., radio range station; the intersection of the center lines of the on course signals of the east leg of the Springfield, Mass., radio range and the southwest leg of the Boston, Mass., radio range; Boston, Mass., radio range station.

3. By amending § 60.23001 to read as follows:

§ 60.23001 *Green civil airway No. 2 (San Francisco, Calif., to New York,*

N. Y.) Oakland, Calif., radio range station; Sacramento, Calif., radio range station; Donner Summit, Calif., radio range station; Reno, Nev., radio range station; Humboldt, Nev., radio range station; Buffalo Valley, Nev., radio range station; Elko, Nev., radio range station; Wendover, Utah, radio range station; Salt Lake City, Utah, radio range station; Fort Bridger, Wyo., radio range station; Rock Springs, Wyo., radio range station; Parco, Wyo., radio range station; Cheyenne, Wyo., radio range station; Sidney, Nebr., radio range station; North Platte, Nebr., radio range station; Grand Island, Nebr., radio range station; Omaha, Nebr., radio range station; Des Moines, Iowa, radio range station; Moline, Ill., radio range station; the intersection of the center lines of the on course signals of the east leg of the Moline, Ill., radio range and the north leg of the Morse, Ill., radio range; Newark, Ill., fan type radio marker station, or the intersection of the center lines of the on course signals of the southwest leg of the Chicago, Ill., radio range and the east leg of the Moline, Ill., radio range; Chicago, Ill., radio range station; Lansing, Ill., fan type radio marker station, or the intersection of the center lines of the on course signals of the southeast leg of the Chicago, Ill., radio range and the west leg of the Goshen, Ind., radio range; Goshen, Ind., radio range station; Toledo, Ohio, radio range station; Cleveland, Ohio, radio range station; the intersection of the center lines of the on course signals of the east leg of the Cleveland, Ohio, radio range and the northeast leg of the Akron, Ohio, radio range; Mercer, Pa., radio range station; Bellefonte, Pa., radio range station; the intersection of the center lines of the on course signals of the north leg of the Harrisburg, Pa., radio range and the east leg of the Bellefonte, Pa., radio range; Allentown, Pa., radio range station; New Brunswick, Pa., fan type radio marker station, or the intersection of the center lines of the on course signals of the southeast leg of the Allentown, Pa., radio range and the southwest leg of the Newark, N. J., radio range; the intersection of the center lines of the on course signals of the southeast leg of the Allentown, Pa., radio range and the south leg of the New York, N. Y. (New York Municipal Airport, La Guardia Field) radio range; New York, N. Y. (New York Municipal Airport, La Guardia Field) radio range station.

4. By amending § 60.23003 to read as follows:

§ 60.23003 *Green civil airway No. 4 (Los Angeles, Calif., to Washington, D. C.).* Los Angeles, Calif., radio range station; Riverside, Calif., radio range station; the intersection of the center lines of the on course signals of the east leg of the Riverside, Calif., radio range and the north leg of the Indio, Calif., radio range; Blythe, Calif., radio range station; Phoenix, Ariz., radio range station; Tucson, Ariz., radio range station; Cochise, N. Mex., radio range station; Columbus, N. Mex., radio range station; El Paso, Tex., radio range station; Guadalupe Pass., Tex., radio range station; Wink, Tex., radio range station; Big Spring, Tex., radio range station; Abilene, Tex., radio range station; the intersection of the center lines of the on course signals of the west leg of the Fort Worth, Tex., radio range and the northwest leg of the Waco, Tex., radio range; Fort Worth, Tex., radio range station; the intersection of the center lines of the on course signals of the northeast leg of the Fort Worth, Tex., radio range and the north leg of the Dallas, Tex., radio range; the intersection of the center lines of the on course signals of the north leg of the Tyler, Tex., radio range and the west leg of the Texarkana, Tex., radio range; Texarkana, Tex., radio range station; Little Rock, Ark., radio range station; Memphis, Tenn., radio range station; Jacks Creek, Tenn., radio range station; Nashville, Tenn., radio range station; Smithville, Tenn., radio range station; Knoxville, Tenn., radio range station; Bristol, Va., radio range station; Roanoke, Va., radio range station; Gordonsville, Va., radio range station; Mason Springs, Md., fan type radio marker station, or the intersection of the center lines of the on course signals of the northeast leg of the Gordonsville, Va., radio range and the south leg of the Washington, D. C., radio range; Washington, D. C., radio range station.

5. By amending § 60.23004 to read as follows:

§ 60.23004 *Green civil airway No. 5 (Corpus Christi, Tex., to Richmond, Va.).* Corpus Christi, Tex., radio range station; Houston, Tex., radio range station; Beaumont, Tex., radio range station; Lake Charles, La., radio range station; New Orleans, La., radio range station; Mobile, Ala., radio range station; the intersection of the center lines of the on course signals of the east leg of the Birmingham, Ala., radio range and the southwest leg of the Atlanta, Ga., radio range; Atlanta, Ga., radio station; the intersection of the center lines of the on course signals of the northeast leg of the Atlanta, Ga., radio range and the northwest leg of the Augusta, Ga., radio range; Spartanburg, S. C., radio range station; the intersection of the center lines of the on course signals of the southwest leg of the Greensboro, N. C., radio range and the north leg of the Charlotte, N. C., radio range; Greensboro, N. C., radio range station; Richmond, Va., radio range station.

6. By amending § 60.23100 to read as follows:

§ 60.23100 *Amber civil airway No. 1 (San Diego, Calif., to United States-Canadian Border).* San Diego, Calif., radio range station; Oceanside, Calif., radio marker station; Santa Ana, Calif., radio range station; the intersection of the center lines of the on course signals of the north leg of the Santa Ana, Calif., radio range and the east leg of the Los Angeles, Calif., radio range; Los Angeles, Calif., radio range station; Newhall, Calif., radio range station; Bakersfield, Calif., radio range station; Fresno, Calif., radio range station; Modesto, Calif., radio range station; Oakland, Calif., radio range station; Potrero Hills, Calif., radio marker station; Williams, Calif., radio range station; Red Bluff, Calif., radio range station; Fort Jones, Calif., radio range station; Medford, Oreg., radio range station; Eugene, Oreg., radio range station; Portland, Oreg., radio range station; Esthel, Wash., radio range station; Seattle, Wash., radio range station; Everette, Wash., radio range station; Bellingham, Wash., radio range station.

7. By amending § 60.23101 to read as follows:

§ 60.23101 *Amber civil airway No. 2 (Daggett, Calif., to Great Falls, Mont.).* Daggett, Calif., radio range station; Silver Lake, Calif., radio range station; Las Vegas, Nev., radio range station; Mormon Mesa, Nev., radio range station; Enterprise, Nev., radio range station; Milford, Utah, radio range station; Delta, Utah, radio range station; Tintic, Utah, radio range station; Salt Lake City, Utah, radio range station; Plymouth, Utah, radio range station; Pocatello, Idaho, radio range station; Idaho Falls, Idaho, radio range station; Dubois, Idaho, radio range station; Dillon, Mont., radio range station; Whitehall, Mont., radio range station; Helena, Mont., radio range station; Great Falls, Mont., radio range station.

8. By amending § 60.23102 to read as follows:

§ 60.23102 *Amber civil airway No. 3 (El Paso, Tex., to Great Falls, Mont.).* The intersection of the center lines of the on course signals of the west leg of the El Paso, Tex., radio range and the south leg of the Engle, N. Mex., radio range; Engle, N. Mex., radio range station; Albuquerque, N. Mex., radio range station; Las Vegas, N. Mex., radio range station; Trinidad, Colo., radio range station; Pueblo, Colo., radio range station; Denver, Colo., radio range station; Cheyenne, Wyo., radio range station; the intersection of the center lines of the on course signals of the north leg of the Cheyenne, Wyo., radio range and the southeast leg of the Douglas, Wyo., radio range; Douglas, Wyo., radio range station; the intersection of the center lines of the on course signals of the northwest leg of the Douglas, Wyo., radio range and the east leg of the Casper, Wyo., radio range; Casper, Wyo., radio range station; the intersection of the center lines of the on course signals of the north leg of the Casper, Wyo., radio range and the southeast leg of the Sheridan, Wyo., radio range; Sheridan, Wyo., radio range station; Billings, Mont., radio range station; the intersection of the center lines of the on course signals of the northwest leg of the Billings,

Mont., radio range and the southeast leg of the Lewistown, Mont., radio range; Lewistown, Mont., radio range station; Great Falls, Mont., radio range station.

9. By amending § 60.23103 to read as follows:

§ 60.23103 *Amber civil airway No. 4 (Brownsville, Tex., to Bismarck, N. Dak.).* Brownsville, Tex., radio range station; Corpus Christi, Tex., radio range station; San Antonio, Tex., radio range station; Austin, Tex., radio range station; Waco, Tex., radio range station; the intersection of the center lines of the on course signals of the northwest leg of the Waco, Tex., radio range and the south leg of the Fort Worth, Tex., radio range; Fort Worth, Tex., radio range station; the intersection of the center lines of the on course signals of the north leg of the Fort Worth, Tex., radio range and the southeast leg of the Wichita Falls, Tex., radio range; Gainesville, Tex., radio marker station; Oklahoma City, Okla., radio range station; Tulsa, Okla., radio range station; Chanute, Kans., radio range station; Kansas City, Mo., radio range station; Omaha, Nebr., radio range station; Sioux City, Iowa, radio range station; Sioux Falls, S. Dak., radio range station; Huron, S. Dak., radio range station; Aberdeen, S. Dak., radio range station; the intersection of the center lines of the on course signals of the northwest leg of the Aberdeen, S. Dak., radio range and the southeast leg of the Bismarck, N. Dak., radio range; Bismarck, N. Dak., radio range station.

10. By amending § 60.23106 to read as follows:

§ 60.23106 *Amber civil airway No. 7 (Key West, Fla., to Caribou, Maine).* Key West, Fla., radio range station; Miami, Fla., radio range station; Melbourne, Fla., radio range station; Daytona Beach, Fla., radio range station; Jacksonville, Fla., radio range station; Savannah, Ga., radio range station; Charleston, S. C., radio range station; Florence, S. C., radio range station; Raleigh, N. C., radio range station; Richmond, Va., radio range station; Mason Springs, Md., fan type radio marker station, or the intersection of the center lines of the on course signals of the northeast leg of the Gordonsville, Va., radio range and the south leg of the Washington, D. C., radio range; Washington, D. C., radio range station; Baltimore, Md., radio range station; Camden, N. J., radio range station; New Brunswick, N. J., radio fan type marker station, or the intersection of the center lines of the on course signals of the east leg of the Allentown, Pa., radio range and the southwest leg of the Newark, N. J., radio range; Newark, N. J., radio range station; Yonkers, N. Y., fan type radio marker station, or the intersection of the center lines of the on course signals of the south leg of the New Hackensack, N. Y., radio range and the northeast leg of the Newark, N. J., radio range; Hartford, Conn., radio range station; Boston, Mass., radio range station; Portland, Maine, radio range station; Augusta, Maine, radio range station; Bangor, Maine, radio range station; Millinocket, Maine, radio range station; Caribou, Maine, radio range station.

11. By amending § 60.23204 to read as follows:

§ 60.23204 *Red civil airway No. 5 (United States-Canadian Border to Danforth, Maine).* Millinocket, Maine, radio range station.

12. By amending § 60.23209 to read as follows:

§ 60.23209 *Red civil airway No. 10 (Amarillo, Tex., to Charleston, S. C.).* Amarillo, Tex., radio range station; Clarendon, Tex., radio range station; Wichita Falls, Tex., radio range station; the intersection of the center lines of the on course signals of the north leg of the Fort Worth, Tex., radio range and the southeast leg of the Wichita Falls, Tex., radio range; Fort Worth, Tex., radio range station; Dallas, Tex., radio range station; the intersection of the center lines of the on course signals of the east leg of the Dallas, Tex., radio range and the northwest leg of the Tyler, Tex., radio range; the intersection of the center lines of the on course signals of the north leg of the Tyler, Tex., radio range and the west leg of the Shreveport, La., radio range; Shreveport, La., radio range station; Monroe, La., radio range station; Jackson, Miss., radio range station; Meridian, Miss., radio range station; Birmingham, Ala., radio range station; the intersection of the center lines of the on course signals of the east leg of the Birmingham, Ala., radio range and the southwest leg of the Atlanta, Ga., radio range; Atlanta, Ga., radio range station; the intersection of the center lines of the on course signals of the northeast leg of the Atlanta, Ga., radio range and the northwest leg of the Augusta, Ga., radio range; Augusta, Ga., radio range station; Charleston, S. C., radio range station.

13. By amending § 60.23212 to read as follows:

§ 60.23212 *Red civil airway No. 13 (Springfield, Mass., to Boston, Mass.).* Springfield, Mass., radio range station; Hartford, Conn., radio range station; Boston, Mass., radio range station.

14. By amending § 60.23224 to read as follows:

§ 60.23224 *Red civil airway No. 25 (Daytona Beach, Fla., to Miami, Fla.).* Daytona Beach, Fla., radio range station; Orlando, Fla., radio range station; Tampa, Fla., radio range station; Fort Myers, Fla., radio range station; Miami, Fla., radio range station.

15. By amending § 60.23228 to read as follows:

§ 60.23228 *Red civil airway No. 29 (Baltimore, Md., to Elmira, N. Y.).* Baltimore, Md., radio range station; Harrisburg, Pa., radio range station; Williamsport, Pa., radio range station; Elmira, N. Y., radio range station.

16. By adding the following new sections to § 60.23:

§ 60.23229 *Red civil airway No. 30 (Mobile, Ala., to Jacksonville, Fla.).* Mobile, Ala., radio range station; Crestview, Fla., radio range station; the intersection of the center lines of the on course signals of the east leg of the Crestview, Fla., radio range and the northwest leg of the Tallahassee, Fla., radio range; Tallahassee, Fla., radio range station; Jacksonville, Fla., radio range station.

§ 60.23230 *Red civil airway No. 31 (Huron, S. Dak., to Minneapolis, Minn.).* Huron, S. Dak., radio range station; Watertown, S. Dak., radio range station; Willmar, Minn., radio range station; the intersection of the center lines of the on course signals of the west leg of the Willmar, Minn., radio range and the northwest leg of the Minneapolis, Minn., radio range; Minneapolis, Minn., radio range station.

§ 60.23231 *Red civil airway No. 32 (San Antonio, Tex., to Houston, Tex.).* The intersection of the center lines of the on course signals of the southeast leg of the San Antonio, Tex., radio range and the west leg of the Yoakum, Tex., radio range; Yoakum, Tex., radio range station; the intersection of the center lines of the on course signals of the east leg of the Yoakum, Tex., radio range and the southwest leg of the Houston, Tex., radio range.

§ 60.23232 *Red civil airway No. 33 (Harrisburg, Pa., to New York, N. Y., Municipal Airport, LaGuardia Field).* The intersection of the center lines of the on course signals of the southeast leg of the Harrisburg, Pa., radio range and the southwest leg of the Allentown, Pa., radio range; Allentown, Pa., radio range station; the intersection of the center lines of the on course signals of the northeast leg of the Allentown, Pa., and the northwest leg of the New York, N. Y., (LaGuardia Field) radio range; New York, N. Y., (LaGuardia Field) radio range station.

17. By amending § 60.23302 to read as follows:

§ 60.23302 *Blue civil airway No. 3 (Memphis, Tenn., to Tampa, Fla.).* Memphis, Tenn., radio range station; the intersection of the center lines of the on course signals of the northeast leg of the Memphis, Tenn., radio range and the northwest leg of the Muscle Shoals, Ala., radio range; Muscle Shoals, Ala., radio range station; the intersection of the center lines of the on course signals of the southeast leg of the Muscle Shoals, Ala., radio range and the north leg of the Birmingham, Ala., radio range; Birmingham, Ala., radio range station; Dothan, Ala., radio range station; the intersection of the center lines of the on course signals of the southeast leg of the Dothan, Ala., radio range and the

northwest leg of the Tallahassee, Fla., radio range; Tallahassee, Fla., radio range station; the intersection of the center lines of the on course signals of the east leg of the Tallahassee, Fla., radio range and the northwest leg of the Cross City, Fla., radio range; Cross City, Fla., radio range station; the intersection of the center lines of the on course signals of the southeast leg of the Cross City, Fla., radio range and the north leg of the Tampa, Fla., radio range; Tampa, Fla., radio range station.

18. By amending § 60.23311 to read as follows:

§ 60.23311 *Blue civil airway No. 12 (Northdalles, Wash., to Ellensburg, Wash.)*. Northdalles, Wash., radio range station; the intersection of the center lines of the on course signals of the northeast leg of the Northdalles, Wash., radio range and the south leg of the Ellensburg, Wash., radio range; Ellensburg, Wash., radio range station.

19. By amending § 60.23314 to read as follows:

§ 60.23314 *Blue civil airway No. 15 (Columbus, Ohio, to Erie, Pa.)*. Akron, Ohio, radio range station; the intersection of the center lines of the on course signals of the northeast leg of the Akron, Ohio, radio range and the southwest leg of the Erie, Pa., radio range; Erie, Pa., radio range station.

20. By amending § 60.2400 to read as follows:

§ 60.2400 *Green civil airway No. 1 airway traffic control areas (Seattle, Wash., to Boston, Mass.)*. Those portions of green civil airway No. 1: From a line extended at right angles across such airway through a point on the center line thereof 25 miles southeast of the La Crosse, Wis., radio range station, to the intersection of the center line of the on course signal of the east leg of the Detroit, Mich., (Wayne County Airport), radio range and the United States-Canadian Border; from the intersection of the center line of the on course signal of the west leg of the Buffalo, N. Y., radio range and the United States-Canadian Border, to a line extended at right angles across such airway through a point on the center line thereof 25 miles east of the Syracuse, N. Y., radio range station.

21. By amending § 60.2402 to read as follows:

§ 60.2402 *Green civil airway No. 3 airway traffic control areas (Los Angeles, Calif., to Camden, N. J.)*. Those portions of green civil airway No. 3: From the Municipal Airport, Los Angeles, Calif., to a line extended at right angles across such airway through a point on the center line thereof 25 miles east of the Ashfork, Ariz., radio range station; from a line extended at right angles across such airway through a point on the center line thereof 25 miles west of the Columbia, Mo., radio range station, to a line extended at right angles across such airway through a point on the center line thereof 25 miles southwest of the Terre Haute, Ind., radio range station; from a line extended at right angles across such airway through a point on the center line thereof 25 miles east of the Columbus, Ohio, radio range station, to the Camden, N. J., radio range station.

22. By amending § 60.2403 to read as follows:

§ 60.2403 *Green civil airway No. 4 airway traffic control areas (Los Angeles, Calif., to Washington, D. C.)*. Those portions of green civil airway No. 4: From the Los Angeles, Calif., radio range station, to a line extended at right angles across such airway through a point on the center line thereof 25 miles south of the Phoenix, Ariz., radio range station; from a line extended at right angles across such airway through a point on the center line thereof 25 miles east of the Big Spring, Tex., radio range station, to a line extended at right angles across such airway through a point on the center line thereof 25 miles southwest of the Little Rock, Ark., radio range station; from a line extended at right angles across such airway through a point on the center line thereof 25 miles southwest of the Roanoke, Va., radio range station, to the Washington Airport, Arlington, Va.

23. By amending § 60.2414 to read as follows:

§ 60.2414 *Amber civil airway No. 5 airway traffic control areas (New Orleans, La., to Milwaukee, Wis.)*. Those portions of amber civil airway No. 5: From a line extended at right angles across such airway through a point on the center line thereof 25 miles north of the Memphis, Tenn., radio range station to the Milwaukee, Wis., radio range station.

24. By amending § 60.2416 to read as follows:

§ 60.2416 *Amber civil airway No. 7 airway traffic control areas (Key West, Fla., to Caribou, Maine)*. Those portions of amber civil airway No. 7: From a line extended at right angles across such airway through a point on the center line thereof 25 miles north of the Raleigh, N. C., radio range station, to a line extended at right angles across such airway through a point on the center line thereof 25 miles northeast of the Hartford, Conn., radio range station.

25. By amending § 60.24200 to read as follows:

§ 60.24200 *Red civil airway No. 1 airway traffic control areas (Portland, Oreg., to Salt Lake City, Utah)*. That portion of red civil airway No. 1: From a line extended at right angles across such airway through a point on the center line thereof 25 miles northwest of the Boise, Idaho, radio range station, to the Salt Lake City, Utah, radio range station.

26. By amending § 60.24204 to read as follows:

§ 60.24204 *Red civil airway No. 5 airway traffic control areas (United States-Canadian Border to Danforth, Maine)*. No designation.

27. By amending § 60.24212 to read as follows:

§ 60.24212 *Red civil airway No. 13 airway traffic control areas (Springfield, Mass., to Boston, Mass.)*. That portion of red civil airway No. 13: From a line extended at right angles across such airway through a point on the center line thereof 25 miles northwest of the Hartford, Conn., radio range station, to a line extended at right angles across such airway through a point on the center line thereof 25 miles east of the Hartford, Conn., radio range station.

28. By amending § 60.24214 to read as follows:

§ 60.24214 *Red civil airway No. 15 airway traffic control areas (Las Vegas, Nev., to Phoenix, Ariz.)*. All portions of red civil airway No. 15.

29. By amending § 60.24221 to read as follows:

§ 60.24221 *Red civil airway No. 22 airway traffic control areas (Roanoke, Va., to Gordonsville, Va.)*. All of red civil airway No. 22.

30. By adding the following new sections to § 60.24:

§ 60.24229 *Red civil airway No. 30 airway traffic control areas (Mobile, Ala., to Jacksonville, Fla.)*. No designation.

§ 60.24230 *Red civil airway No. 31 airway traffic control areas (Huron, S. Dak., to Minneapolis, Minn.)* No designation.

§ 60.24231 *Red civil airway No. 32 airway traffic control areas (San Antonio, Tex., to Houston, Tex.)*. No designation.

§ 60.24232 *Red civil airway No. 33 airway traffic control areas (Harrisburg, Pa., to New York, N. Y., Municipal Airport (LaGuardia Field))*. All of red civil airway No. 33.

31. By amending § 60.24302 to read as follows:

§ 60.24302 *Blue civil airway No. 3 airway traffic control areas (Memphis, Tenn., to Tampa, Fla.)*. Those portions of the blue civil airway No. 3: From a line extended at right angles across such airway through a point on the center line thereof 25 miles southeast of the Muscle Shoals, Ala., radio range station, to a line extended at right angles across such airway through a point on

the center line thereof 25 miles northwest of the Dothan, Ala., radio range station.

By the Authority.

[SEAL] PAUL J. FRIZZELL,
Secretary.

[F. R. Doc. 40-2305; Filed, June 10, 1940; 11:30 a. m.]

TITLE 22—FOREIGN RELATIONS

CHAPTER I—DEPARTMENT OF STATE

PART 55C—TRAVEL

§ 55C.4 *American vessels in combat areas*—(c) *Vessels authorized to evacuate American citizens and those under direction of American Red Cross*—(3) *The S. S. McKeesport.* The S. S. *McKeesport* has, by arrangement with the appropriate authorities of the United States Government, been commissioned to proceed into and through the combat area defined by the President in his proclamation numbered 2394, of April 10, 1940,[1] under charter of the American Red Cross and under safe conduct granted by belligerent states named in the President's proclamation of November 4, 1939. Therefore, in accordance with paragraph (4)[2] of the regulations which the Secretary of State issued on November 6, 1939, and amended on April 10, 1940,[3] the provisions of the President's proclamation of April 10, 1940 do not apply to the voyage which the S. S. *McKeesport* has been commissioned to undertake under the aforesaid auspices. (Sec. 3, Public Res. 54, 76th Cong., 2d sess., Nov. 4, 1939; Proc. No. 2394, April 10, 1940)

CORDELL HULL,
Secretary of State.

JUNE 7, 1940.

[F. R. Doc. 40-2314; Filed, June 10, 1940; 11:50 a. m.]

TITLE 26—INTERNAL REVENUE

CHAPTER I—BUREAU OF INTERNAL REVENUE

[Regulations 20]

SUBCHAPTER C—MISCELLANEOUS EXCISE TAXES

PART 194—WHOLESALE AND RETAIL DEALERS IN LIQUORS

TABLE OF CONTENTS

REGULATIONS RELATING TO WHOLESALE AND RETAIL DEALERS IN LIQUORS

Article I—Scope of Regulations

§ 194.1 *Special taxes and requirements as to wholesale and retail dealers in liquors.* These regulations are prescribed pursuant to the foregoing provisions of law relating to the payment of special taxes and to other requirements as to wholesale and retail dealers in distilled spirits, wines, and fermented malt liquors.

Article II—Regulations Superseded

§ 194.2 *Effective date.* These regulations shall, on and after the sixtieth

[1] 5 F.R. 1399.

[2] This regulation, which appeared as paragraph (4) in "Regulations under section 3 of the joint resolution of Congress approved November 4, 1939" (4 F.R. 4510), has been designated as § 55C.4 (c) under Title 22 for codification purposes.

[3] 5 F.R. 1401.

day following the date of approval, supersede all prior regulations dealing with special taxes and other requirements as to wholesale and retail dealers in liquors to the extent that such prior regulations are inconsistent herewith. All prior regulations which are inconsistent herewith shall remain in force and effect for the assessment and collection of all special taxes and ad valorem penalties, for the imposition of all penalties, civil and criminal, and for the enforcement of all forfeitures which have accrued thereunder.

Article III—Territorial Extent of Regulations

§ 194.3 *Territorial extent.* The provisions of these regulations shall be applicable to the several States of the United States, District of Columbia, Alaska, and Territory of Hawaii.

Article IV—Definitions

§ 194.4 *Definitions.* As used in these regulations, the following words and phrases shall have the meaning as herein defined:

(a) "Person" shall include a natural person, corporation, partnership, trust or estate, joint-stock company, association or other unincorporated organization or group, fiduciary, a State, city, county, municipality, or other political subdivision.

(b) "I.R.C." shall mean the Internal Revenue Code.

(c) "Commissioner" shall mean the Commissioner of Internal Revenue.

(d) "Collector" shall mean a collector of internal revenue.

(e) "District supervisor" shall mean a district supervisor of the Alcohol Tax Unit.

(f) "Fiscal year" shall mean the period from July 1 of each calendar year to and including June 30 of the following calendar year.

(g) "Wine gallon" shall mean a liquid measure of 231 cubic inches or 128 fluid ounces.

Article V—Special Taxes

§ 194.5 *Basis of tax.* Special taxes are imposed upon the engaging in or carrying on the business or occupation of selling or offering for sale alcoholic liquors fit for use as a beverage. No person shall be engaged in or carry on any business or occupation hereinafter mentioned unless he has paid special tax therefor in the manner hereinafter provided. (Secs. 3250 and 3253, I.R.C.)

§ 194.6 *Agents and auctioneers.* A person who sells merely as the agent or employee of another is not subject to special tax. Auctioneers selling on behalf of others are within this category. (Sec. 3250, I.R.C.)

§ 194.7 *Selling or offering for sale.* whether the activities of any person constitute selling or offering for sale is to be determined by the facts in each case; but any course of selling though to a restricted class of persons or without a view to profit, is within the meaning of the statute. (Sec. 3250, I.R.C.)

§ 194.8 *Single sale.* A single sale, unattended by circumstances showing the one making the sale to be engaged in business, does not create special tax liability. (Sec. 3250, I.R.C.)

§ 194.9 *Brokers or agents.* A broker or agent may solicit orders for liquors in the name of a customer or principal, receive a commission for his services and make collections for his customer or principal without incurring liability to special tax. (Sec. 3250, I.R.C.)

§ 194.10 *Classification of alcoholic liquors.* There are three general classifications of alcoholic liquors for purposes of special tax: (1) distilled spirits, (2) wines, and (3) fermented malt liquors. Distilled spirits include alcohol, whisky, brandy, gin, rum, cordials, liqueurs, cocktails, etc. Wines include still wines, champagne, sparkling and carbonated wines, vermouth, etc. Fermented malt liquors include such products as beer, ale, stout, porter, sake, etc. (Secs. 2800, 3030, and 3150, I.R.C.)

§ 194.11 *Retail dealers in liquors—persons liable.* Every person who sells, or offers for sale, foreign or domestic distilled spirits, wines, or malt liquors, otherwise than as hereinafter provided, in less quantities than 5 wine gallons to the same person at the same time is a retail dealers in liquors and shall pay the special tax imposed. (Sec. 3254 (c), I.R.C.)

§ 194.12 *Lawful sales by retail dealer in liquors.* (a) A person who pays special tax as a retail dealer in liquors may sell either distilled spirits, wines, or malt liquors, or any two or all three of them. He may sell all three classes of liquors to the same person at the same time: *Provided,* That the quantity of each class is less than 5 wine gallons. For example, he may sell 4 gallons of distilled spirits, 4 gallons of wine, and 4 gallons of malt liquors in one transaction. He may not sell either distilled spirits, wines, or malt liquors in quantities of 5 wine gallons or more to the same person at the same time without incurring liability to special tax as wholesale dealer in liquors.

(b) Liability to special tax as wholesale dealer in liquors is incurred by a retail dealer in liquors when an order from one person is accepted for 5 wine gallons or more of any single classification, even if the order is filled and delivery is made in parcels of less than 5 wine gallons and on different dates.

(c) A retail dealer in liquors receiving and transmitting to a wholesale dealer in liquors, orders for liquors in wholesale quantities does not incur liability to special tax as a wholesale dealer in liquors if he merely transmits the orders and the liquors are billed, charged, and shipped to the customers by the wholesaler. No special tax liability is incurred even though the retail dealer in liquors receives a commission on such sales or guarantees the payment of the account. (Sec. 3254 (a), (b), I.R.C.)

§ 194.13. *Wholesale dealers in liquors—persons liable.* Every person who sells, or offers for sale, foreign or domestic distilled spirits, wines, or malt liquors in quantities of 5 wine gallons or more to the same person at the same time is a wholesale dealer in liquors and shall pay the special tax imposed. (Sec. 3254 (b), I.R.C.)

§ 194.14 *Retail sales by wholesale dealers in liquors.* A wholesale dealer in liquors who sells or offers for sale distilled spirits, wines, or malt liquors in quantities of less than 5 wine gallons to the same person at the same time must pay special tax as a retail dealer in liquors. (Sec. 3250 (b), I.R.C.)

§ 194.15 *Retail dealers in malt liquors—persons liable.* Every person who sells, or offers for sale, malt liquors in less quantities than 5 gallons to the same person at the same time, and who does not sell or offer for sale distilled spirits or wines, shall be regarded as a retail dealer in malt liquors and shall pay the special tax imposed. (Sec. 3254 (f), I.R.C.)

§ 194.16 *Sales by retail dealers in malt liquors.* (a) A retail dealer in malt liquors who sells, or offers for sale, malt liquors in quantities of 5 gallons to the same person at the same time subjects himself to special tax as a wholesale dealer in malt liquors.

(b) When a retail dealer in malt liquors sells, or offers for sale, other classes of alcoholic liquors in quantities of less than 5 wine gallons to the same person at the same time, he must pay special tax as retail dealer in liquors.

(c) A retail dealer in malt liquors, receiving and transmitting to a wholesale dealer in liquors orders for liquors in wholesale quantities, does not incur liability to special tax as a wholesale dealer in malt liquors, or as a wholesale dealer in liquors, as the case may be, if he merely transmits the orders and the liquors are billed, charged, and shipped to the customer by the wholesaler. No special tax is incurred even though the retail dealer in malt liquors receives a commission on such sales or guarantees the payment of the accounts. (Sec. 3254 (e), (f), I.R.C.)

§ 194.17 *Wholesale dealers in malt liquors—persons liable.* Every person who sells, or offers for sale, malt liquors in quantities of 5 gallons or more to the same person at the same time, and who does not sell or offer for sale distilled spirits or wines at wholesale, shall be regarded as a wholesale dealer in malt liquors and shall pay the special tax imposed. (Sec. 3254 (e), I.R.C.)

§ 194.18 *Retail sales by wholesale dealer in malt liquors.* A wholesale dealer in malt liquors may not sell or offer for sale such liquors in quantities of less than 5 gallons to the same person at the same time without incurring liability to special tax as a retail dealer in malt liquors. He may not sell, or offer for sale, distilled spirits or wines without incurring liability to special tax as a

retail or wholesale dealer in liquors, depending upon the quantity sold to the same person at the same time. (Sec. 3254 (b), (c), (f), I.R.C.)

§194.19 *Sales of wines and malt liquors at fairs, picnics and similar entertainments.* (a) Each person desiring to sell fermented malt liquor or wine, or both, at retail to members, guests, or patrons of bona fide fairs, reunions, picnics, carnivals, or similar outings, and each fraternal, civic, church, labor, charitable, benevolent, or ex-service men's organization desiring to sell fermented malt liquor or wine, or both, on the occasion of any kind of entertainment, dance, picnic, bazaar, or festival held by it, may obtain from the collector for each calendar month for which any such sales are to be made (1) a retail dealer in malt liquor limited special tax stamp, if fermented malt liquor only is to be sold, or (2) a retail dealer in liquors limited special tax stamp, if wine only, or wine and fermented malt liquor only, are to be sold. Application on Form 11, Special Tax Return, and payment of the special tax of $2 shall be made to the collector before any such sales are made.

(b) No person or organization otherwise engaged in business as a wholesale or retail dealer in liquors, or as a wholesale or retail dealer in malt liquors, will be permitted to procure a limited special tax stamp as a retail dealer in liquors or as a retail dealer in malt liquors.

(c) A person holding a limited ($2) special tax stamp as a retail dealer in liquors or as a retail dealer in malt liquors may, during the calendar month for which the stamp is issued, remove his business to a location other than that stated on the stamp and continue such business for the residue of the calendar month without paying additional special tax, provided the removal is registered with the collector, as provided in § 194.56. (Secs. 3250 (e) (3) and 3280, I.R.C.)

§ 194.20 *Clubs, societies, and similar groups.* (a) A club or similar organization furnishing liquors to its members under conditions constituting sale is required to pay special tax.

(b) A club or similar organization which sells liquors to its members by accepting orders therefor, furnishing the liquors so ordered and collecting the price thereof, is required to pay special tax.

(c) A club or similar organization conducting a bar for the sale of liquors, on the occasion of an outing, picnic, or other entertainment, must pay special tax. The special tax stamp held by the proprietor of the premises where the bar is located will not relieve the club or similar organization from special tax liability.

(d) Special tax is not incurred when a club or similar organization collects money in advance from its members for the purchase of liquors for their consumption, or advances such money upon an agreement with the members for reimbursement. However, special tax is incurred if the club or similar organization purchases liquors without prior agreement with the members and subsequently recoups. (Secs. 3250 and 3254, I.R.C.)

§ 194.21 *Restaurants, cafes, etc.* Proprietors of restaurants and other persons who serve liquors with meals to customers, though no separate or specific charge for the liquors is made, are required to pay special tax. (Sec. 3250, I.R.C.)

§ 194.22 *Hospitals.* Hospitals and similar institutions furnishing liquors to patients are not required to pay special tax, provided no specific or additional charge is made for the liquors so furnished. (Sec. 3250, I.R.C.)

§ 194.23 *States, counties, and municipalities.* A State, county, city, municipality, or other political subdivision engaged in the business of selling, or offering for sale, liquors is not exempt from the payment of special tax. (Secs. 3250 and 3254, I.R.C.)

§ 194.24 *Sales in violation of State law.* Persons who engage in the sale, or offering for sale, of liquors in violation of State laws, are required to pay special tax. The special tax stamp is not a license or permit, and does not protect such persons from prosecution under the State laws. (Sec. 3276, I.R.C.)

§ 194.25 *Sale of denatured alcohol or articles.* Any person who sells denatured alcohol, denatured rum, or any substance or preparation made with or containing denatured alcohol or denatured rum, for use, or for sale for use, for beverage purposes, or who sells any of such products under circumstances from which it might reasonably appear that it is the intention of the purchaser to procure the same for sale or use for beverage purposes, shall pay special tax. (Sec. 3111, I.R.C.)

§ 194.26 *Army post exchanges and canteens on Government property.* (a) Army post exchanges established and conducted under post exchange regulations of the War Department, and under the complete control of such department, are not subject to special tax, provided sales are not made to the general public but are restricted to members of the post and their guests.

(b) Special tax must be paid for the sale of liquors at canteens and similar places located on United States Reservations, if such canteens and similar places are conducted otherwise than as a governmental function. (Sec. 3254, I.R.C.)

§194. 27 *Warehouse receipts covering spirits in storage.* (a) Persons engaged in the business of selling, or offering for sale, warehouse receipts for spirits in Government bonded warehouses incur liability to special tax, since the sale of the receipts is equivalent to the sale of the spirits.

(b) A single sale involving one or more warehouse receipts by an investor, as distinguished from one who is engaged in the business of selling warehouse receipts, does not subject the vendor to special tax. (Sec. 3254, I.R.C.)

Article VI—Places Subject to Special Tax

§ 194.28 *Each place of business taxable.* Except as provided in section 194.63, liability to special tax is incurred at each and every place where distilled spirits, wines, or malt liquors are sold or offered for sale. (Sec. 3278, I.R.C.)

§ 194.29 *Places of storage.* Special tax is not required to be paid for warehouses and similar places which are used by dealers merely for the storage of liquors and which are not places where orders for liquors are accepted. (Sec. 3278, I.R.C.)

§ 194.30 *Place of sale or offering for sale.* (a) The place at which ownership of liquors is transferred, actually or constructively, is the place of sale.

(b) Liquors are offered for sale (1) at the place where they are kept for sale and where a sale may be effected, or (2) at any place where sales are consummated. Liquors are not offered for sale by sending abroad an agent to take orders, or by establishing an office elsewhere for the mere purpose of taking orders, provided in each case the orders received by the agent are transmitted to the principal for acceptance at the place where the principal holds a special tax stamp.

(c) Where orders for liquors are received and duly accepted at a place where a special tax stamp is held, the subsequent actual delivery of the liquors from a place of storage does not require the payment of special tax at such place of storage.

(d) A dealer holding a special tax stamp at a given place, who permits actual delivery of liquors from a warehouse at another place, without prior constructive delivery by the acceptance of an order therefor at the place covered by the special tax stamp, is liable for special tax at the place of delivery. (Sec. 3278, I.R.C.)

§ 194.31 *Caterers.* Where the contract of a caterer for the furnishing of a dinner, including liquors, is made at his place of business where he holds a special tax stamp, no liability to special tax is incurred by the serving of the liquors at a different location. (Sec. 3278, I.R.C.)

§ 194.32 *Peddling.* Except as set forth in § 194.63, internal revenue laws do not contemplate the peddling of distilled spirits, wines, or malt liquors, nor permit the issuance of any special tax stamp to cover peddling activities. Persons peddling liquors and not meeting the exemption in § 194.63, are subject to special tax at each place where sales are consummated. (Sec. 3278, I.R.C.)

§ 194.33 *Sales at two or more bars on the same premises.* (a) Where an owner or lessee conducts two or more bars, which have such intercommunication as will enable patrons to move freely from one bar to another without leaving

the premises, under his control, the various bars shall be regarded as parts of one place of business for which but one special tax stamp is required.

(b) Where the proprietor of premises, other than those described in paragraph (d) of this section, lets to another the privilege of selling liquors thereon at two or more bars, which are separated from each other by space under the control of the proprietor or any other person, such bars shall be regarded as separate places of business and special tax must be paid for each bar.

(c) One special tax stamp is not sufficient to cover the operation of two bars on the same premises, if the proprietor excludes, for example, negroes from the bar reserved for whites, or whites from the bar reserved for negroes. One special tax stamp is sufficient for one bar at which, for example, both whites and negroes are served, notwithstanding the races are separated by a partition.

(d) The proprietor of a ball park, race track, stadium, pavilion, or other similar enclosure constituting one premises, who engages in the business of selling liquors throughout such enclosure, including sales from baskets or containers by his employees in his behalf, is required to pay but one special tax for such enclosure. Each concessionaire having the same privilege throughout the enclosure, whether such privilege is exercised separately or simultaneously with the proprietor or another concessionaire, or concessionaires, is likewise required to pay but one special tax for such enclosure.

Where the proprietor confines the operations of the concessionaire, or concessionaires, to a limited area, or areas, within the enclosure, special tax is due from each concessionaire for each such area regardless of the number of bars therein: *Provided*, That if there are two or more bars within one such limited area, there must be intercommunication within such area freely open to the public, otherwise special tax will be due for each place of sale. A proprietor who reserves the right to sell liquor within an enclosure where a limited concession, or concessions, have been granted, but outside the area, or areas, allotted to the concessionaire, or concessionaires, is subject to one special tax unless the space, or spaces, reserved by the proprietor are completely separated by the area, or areas, allotted to the concessionaire, or concessionaires, in which case the proprietor is subject to special tax for each such separate space where sales are made and is also subject to the ruling as to intercommunication, if two or more bars are maintained in any area.

(e) Subsection (d) is equally applicable to hotels. (Sec. 3278, I.R.C.)

Article VII—Each Business Taxable

§ 194.34 *Different businesses of same ownership and location.* (a) Where more than one taxable business is conducted by the same person at the same place, special tax for each business must be paid at the rates severally prescribed.

(b) A person who engages in or carries on the businesses of a retail and wholesale dealer in liquors (different businesses under the law) at the same place is subject to special tax for each business.

(c) A person who engages in or carries on the businesses of a retail and wholesale malt liquor dealer (different businesses under the law) at the same place is subject to special tax for each business.

(d) A person who begins business as a retail dealer in malt liquors and procures the requisite special tax stamp as such, and thereafter during the same or a subsequent month begins business as a retail dealer in liquors (a different business under the law) must pay special tax and procure a special tax stamp as a retail dealer in liquors. Under such conditions, the retail dealer in malt liquors special tax stamp is not subject to redemption. (Sec. 3279, I.R.C.)

§ 194.35 *Mixing cocktails.* A retail dealer in liquors who mixes cocktails or compounds any alcoholic liquors in advance of sale, except for the purpose of filling, for immediate consumption on the premises, orders received at the bar or in the expectation of the immediate receipt of such orders, incurs liability to special tax as a rectifier. (Sec. 3279, I.R.C.)

Article VIII—Partnerships

§ 194.36 *Liability of partners.* (a) Any number of persons carrying on one business in copartnership at any one place during any fiscal year shall be required to pay but one special tax for such business.

(b) The collector may issue a special tax stamp to a partnership in a firm or trade name, provided the names and addresses of all members of the partnership are disclosed on Form 11, Special Tax Return.

(c) Where a number of persons who have paid special tax as copartners admit one or more new members to the firm or form a corporation (a separate legal entity) to take over the business, the new firm or corporation so formed shall pay special tax computed from the first day of the month in which it commenced business.

(d) Where two persons, each holding a special tax stamp for a business carried on by himself, form a partnership, the firm must pay special tax to cover the business conducted by the partnership.

(e) When a member, or members, withdraw from the partnership the remaining partner, or partners, may without incurring additional special tax liability carry on the same business at the same address for the balance of the taxable period for which special tax was paid, provided the partner, or partners, remaining file with the collector from whom the special tax stamp was purchased, within 30 days after the date he or they begin to carry on the business, a return on Form 11, Special Tax return, showing the basis of succession. If the notice of succession is not filed with the collector within 30 days from the date the remaining partner, or partners, begin to carry on the business, he or they will become liable to additional special tax computed from the 1st day of the calendar month in which he or they began to carry on the business to and including June 30 following. (See § 194.61) (Secs. 3277, 3250 and 3791, I.R.C.)

Article IX—Payment of Special Tax

§ 194.37 *Special tax rates.* Special taxes are imposed upon liquor dealers at the following annual (fiscal year) rates:

Retail dealers in liquors	$25
Wholesale dealers in liquors	100
Retail dealers in fermented malt liquors	20
Wholesale dealers in fermented malt liquors	50

(Sec. 3250, I.R.C.)

§ 194.38 *Date special tax is due.* All special taxes become due on the 1st day of July of each year, or on the 1st day of the month in which a taxable business or occupation is commenced. (Sec. 3271 (b), I.R.C.)

§ 194.39 *Computation of special tax.* In the case of a person engaged in business during the month of July, the liability shall be reckoned for the entire fiscal year beginning July 1 and ending June 30 following. Where business is commenced subsequent to July, the liability shall be reckoned proportionately from the 1st day of the month in which business is commenced to June 30 following. For example, a person commencing business in August is liable to special tax for 11 months, or eleven-twelfths of the annual tax. If business is discontinued before the end of the fiscal year, the amount of tax is not thereby reduced. (Sec. 3271 (b), I.R.C.)

§ 194.40 *Filing of return and payment of special tax.* (a) Persons liable to special tax shall render their returns on Form 11, Special Tax Return, with remittances to the collector of the district in which the business is carried on, at such time within the calendar month in which the special tax liability commenced as shall enable the collector to receive such return and remittance not later than the last day of the month.

(b) Payment must be made in cash, or by United States post office money order, or certified check; uncertified checks will not be accepted. (Secs. 3272 (a) and 3656 (b) (1), I.R.C.)

§ 194.41 *Execution of Form 11, Special Tax Return.* (a) Special tax returns shall be made on Form 11, which may be procured from any collector or

deputy collector, and shall disclose, in the space provided, the following:

(1) The true name of the taxpayer, which may be followed by the words "trading as" and any trade name under which the business may be conducted.

(2) The exact location of the place of business, as by name and number of building or street, and where these do not exist, by some particularization in addition to the post office address.

(3) The kind of liquor business carried on.

(4) Except in the case of a corporation, the true names of all persons having a proprietary interest in the business. While it is not necessary that the names of all persons having a proprietary interest in the business appear on the special tax stamp, the names must be disclosed on the return, Form 11.

(b) The return of an individual proprietor shall be signed by the proprietor; the return of a partnership shall be signed by a member of the firm; and the return of a corporation shall be signed by an officer thereof. In each case, the person signing the return shall designate his capacity, as "individual owner," "member of firm," or, in the case of a corporation, the title of the officer. Receivers, trustees, assignees, executors, administrators, and other legal representatives who continue the business of a bankrupt, insolvent, deceased person, etc., will indicate the fiduciary capacity in which they act. Returns signed and sworn to by persons as agents will not be accepted unless they file with the collector a power of attorney authorizing them so to act.

(c) Special tax returns shall be made under oath, except where the amount of tax due for a fractional part of the fiscal year is $10 or less, in which case the signature may be attested by two witnesses. Where the tax is more than $10, the return shall be sworn to before a deputy collector, notary public, or other person legally qualified to administer oaths. Deputy collectors and other internal revenue officers will make no charge for this service. (Sec. 3270, I.R.C.)

§ 194.42 *Extension of time for filing returns.* In the case of illness of the sole proprietor, or the unavoidable absence of the sole proprietor from his business, the collector may grant such further extension of time, not exceeding 30 days from the date the return is due, for the filing of Form 11 as he deems proper. Application for extension of time for filing the return must be made in writing and addressed to the collector for the district in which the business is located and must contain a full recital of the causes of delay. (Secs. 3272 and 3634, I.R.C.)

§ 194.43 *Penalty for failure to file return.* Any person liable to special tax who, without reasonable cause, fails to file a return on Form 11 within the calendar month in which special tax liability commenced shall be subject to an ad valorem penalty computed on the total amount of special tax due. The penalty shall be 5 per centum if the failure is not for more than 30 days, and an additional 5 per centum for each additional 30 days or fraction thereof during which the delinquency continues, but not to exceed 25 per centum in the aggregate. (Sec. 3612, I.R.C.)

§ 194.44 *Reasonable causes for delinquency.* (a) The ad valorem penalty set for in § 194.43 will be asserted and collected by the collector in every case where a special tax return is not filed within the calendar month in which special tax liability commenced, unless an extension of time is granted under § 194.42 or a reasonable cause for delinquency is clearly established by the taxpayer. The following, when clearly established, may be accepted as reasonable causes:

(1) Where the return was mailed in time (whether or not the envelope containing the return had sufficient postage) to reach the collector's office, in normal course of mails, within the legal period. If the due date falls on Sunday or a legal holiday, the following business day is within the legal period.

(2) Where return was filed within the legal period but in the wrong collection district, or directly in the Commissioner's office.

(3) Where the delay or failure to file was due to erroneous information given the taxpayer by an internal revenue officer or employee.

(4) Where delay was caused by death or serious illness of the taxpayer or by serious illness in his immediate family.

(5) Where the delay was caused by unavoidable absence of the taxpayer.

(6) Where delinquency was caused by the destruction by fire or other casualty of the taxpayer's place of business or business records.

(7) Where the taxpayer, prior to the time for filing return, made timely application to the collector's office for proper blanks and these were not furnished him in sufficient time to permit the executed return to be filed on or before its due date.

(8) Where the taxpayer proves that he personally visited the office of the collector or deputy collector before the expiration of the time within which to file return for the purpose of securing information or aid properly to make out his return, and through no fault of his own was unable to see the representatives of the Bureau.

(b) Where other grounds are alleged as reasonable cause for delinquency in filing Form 11, a statement in explanation thereof shall be filed by the taxpayer with the collector for transmission to the Commissioner. The reasonableness of other alleged causes will be determined by the Commissioner on the facts submitted. The policy generally to be followed is that a cause for delinquency which appeals to a man of ordinary prudence and intelligence as a reasonable cause for delay in filing the return and which negatives a willful intent to disobey the tax laws, or gross negligence, will be accepted as reasonable. Mere ignorance of the law will not be considered a reasonable cause.

(c) Where grounds other than those listed in subsection (a) are alleged as reasonable cause, and it appears to the collector that the excuse is such that it will not be considered reasonable by the Commissioner, he shall list the item for assessment on his current Distilled Spirits Tax List, and forward the explanation with Form 807–A, to the Commissioner at the time of forwarding the list. If the cause is adjudged reasonable by the Commissioner, the item shall be removed from the list prior to certification.

(d) Where grounds other than those listed in subsection (a) are alleged as reasonable cause, and it appears to the collector that the excuse is such as may be accepted as reasonable by the Commissioner, he shall not list the ad valorem penalty for assessment, but shall forward the explanation, with Form 807–A, to the Commissioner with his current Distilled Spirits Tax List. If the Commissioner is of the opinion that the explanation is not reasonable, the penalty shall be assessed. (Sec. 3612, I.R.C.)

Article X—Special Tax Stamps

§ 194.45 *Issuance of stamps.* (a) Upon receipt of a return properly executed on Form 11, together with a remittance in the proper amount, the collector will issue an appropriately designated stamp to the taxpayer.

(b) Collectors and their deputies are prohibited from issuing special tax stamps before the tax is fully paid. They are also prohibited from issuing a receipt in lieu of a stamp. A receipt may be furnished only pending the issuance of a stamp, or where the tax liability relates to a prior fiscal year.

(c) Collectors are without authority to refuse to issue a special tax stamp to a liquor dealer engaged in business in violation of State law. The stamp is not a Federal permit or license, but is merely a receipt for the tax. The stamp affords the holder no protection against prosecution for violation of State law.

(d) A special tax stamp may not be sold or transferred to another dealer. (Secs. 3273, 3659, and 3276, I.R.C.)

§ 194.46 *Stamps for passenger trains and boats.* (a) Special tax stamps may be issued to persons carrying on the business of retail dealers in liquors or retail dealers in malt liquors upon passenger railroad trains or upon steamboats or other vessels engaged in the business of carrying passengers. The regular retail

liquor dealer and retail malt liquor dealer stamps shall be issued in such cases.

(b) Special tax stamps issued for the retailing of liquors on passenger trains and vessels are to be made in general terms "In the United States." The taxpayer may transfer such stamps from one passenger train or vessel to another on which he does business without registering the transfer with a collector.

(c) The provisions of § 194.33 (d) are equally applicable to passenger railroad trains and to steamboats or other vessels engaged in the business of carrying passengers.

(d) A special tax stamp may not be issued for the retailing of liquor on any boat that is not engaged in the business of carrying passengers. (Sec. 3255, I.R.C.)

§ 194.47 *Stamps for retail dealers "At Large."*—(a) A retail liquor dealer or retail dealer in malt liquors whose business is such as to require him to travel from place to place in different States of the United States, such as those who sell at carnivals or circuses, may procure a special tax stamp "At Large" covering his activities throughout the United States with the payment of but one special tax as retail dealer in liquors or as a retail dealer in malt liquors, as the case may be.

(b) A retail liquor dealer or retail dealer in malt liquors who desires a special tax stamp "At Large" will so note on Form 11 filed with the collector to whom the special tax is paid, and will state thereon the nature of his business. Before issuing a special tax stamp "At Large," the collector will satisfy himself that the applicant is entitled to obtain a stamp so designated.

(c) A special tax stamp "At Large" may not be issued to a dealer whose business does not require him to travel from place to place in more than one state. (Sec. 3255, I.R.C.)

§ 194.48 *Stamps for dealers in wines only, or wines and malt liquors only.* (a) Retail and wholesale dealers in liquors who sell or offer for sale wines only, or wines and malt liquors only, may obtain stamps as retail or wholesale dealers in liquors, as the case may be, under the following designations upon application and payment of special tax at the annual (fiscal year) rates indicated:

Retail dealer in wines	$25
Retail dealer in wines and malt liquors	25
Wholesale dealer in wines	100
Wholesale dealer in wines and malt liquors	100

(b) Such stamps are receipts for the special taxes imposed upon retail and wholesale liquor dealers, and the holders of such stamps are subject to all provsions of internal revenue laws and regulations relating to such dealers, except as provided in §§ 194.75 to 194.82, inclusive.

(c) A qualified retail dealer in wines, or in wines and malt liquors, may also sell distilled spirits in less quantities than 5 wine gallons without payment of additional special tax. A qualified wholesale dealer in wines, or in wines and malt liquors, may also sell distilled spirits in quantities of 5 wine gallons or more without payment of additional special tax.

(d) The holders of such stamps may not exchange them for the regular retail and wholesale liquor dealer stamps. In the absence of specific demand or application for such stamps, collectors shall issue the regular stamps to persons paying special tax as retail or wholesale dealers in liquors. (Sec. 3254, I.R.C.)

§ 194.49 *Stamps for drug stores and pharmacies selling through licensed pharmacists.* Proprietors of drug stores and pharmacies making sales of distilled spirits through duly licensed pharmacists, may procure stamps designated "Medicinal Spirits Stamp Tax" upon application and payment of special tax at the $25 annual rate. The holders of such stamps are subject to all provisions of internal revenue laws relating to retail liquor dealers. Collectors shall, in the absence of specific demand or application for such stamps, issue the regular retail liquor dealer special tax stamp. (Sec. 3250 (b) (2), I.R.C.)

§ 194.50 *Stamp to be posted.* (a) A special-tax payer shall conspicuously display his special tax stamp in his place of business.

(b) A person holding a special tax stamp as a retail dealer in liquors or a retail dealer in malt liquors "At Large" must place and keep the stamp conspicuously posted at the place where he is conducting such business. (Secs. 3273 (a) and 3274, I.R.C.)

§ 194.51 *Loss of stamp.* (a) If a taxpayer loses his special tax stamp, or if it is accidentally destroyed or is seized by State authorities, he shall immediately notify the collector, who will issue a certificate of payment, Form 785, which must be displayed in lieu of the stamp.

(b) Where a stamp designated "Retail Dealer in Liquors" is seized by State authorities because it does not conform to the dealer's local license or permit (wine, or wine and beer), the collector will, upon request, issue Form 785 to show that the dealer has paid special tax as "Retail Dealer in Wine" or "Retail Dealer in Wines and Malt Liquors," as the circumstances require. (Sec. 3791, I.R.C.)

§ 194.52 *Corrections of errors on special tax stamps.* On receipt of a special tax stamp, the taxpayer will examine it to insure that the name and address are correctly stated. If an error has been made, the stamp should be returned to the collector, with a statement showing the nature of the error and the proper name or address. The collector, on receipt of such stamp and statement, will compare the data with that on Form 11, and if an error on the part of the collector has been made, will make the necessary correction and return stamp to the taxpayer. If the Form 11 agrees with the data on the stamp, the collector will require the taxpayer to file a new Form 11, designated "Amended Return," disclosing the proper name and address, and, on receipt of the amended Form 11, will amend his Record 10 accordingly, attach the amended Form 11 to the original Form 11, make the proper correction on the stamp, and return it to the taxpayer. (Sec. 3791, I.R.C.)

§ 194.53 *Corrections of errors on special tax stamps discovered on inspection.* When an inspector ascertains that an error appears on the special tax stamp as to the name, ownership, address, etc., he will require the taxpayer to prepare a new Form 11, designated "Amended Return," showing the proper name, address, or other correction. Where a special tax stamp is issued in the name of an individual and the business is owned and conducted by a partnership from the beginning of the period of liability covered by the stamp, the names and addresses of all partners will be shown on the amended Form 11. The body of the amended Form 11 must show the reasons for requesting the correction of the special tax stamp. The inspector should also obtain the special tax stamp from the taxpayer, giving him a statement in the nature of a receipt therefor (which receipt shall be kept on the dealer's premises), and forward the amended Form 11, the special tax stamp, and the inspection report to the district supervisor. Upon receipt of the amended Form 11, the special tax stamp, and the inspection report, the district supervisor will examine the amended Form 11 to determine whether correction of the stamp is in order and all necessary data appear on the amended Form 11. If the district supervisor is satisfied that the papers are in order, he will transmit the amended Form 11 and the special tax stamp to the proper collector with an appropriate letter of explanation. Upon receipt of these documents, the collector will make the proper correction on the special tax stamp, amend his Record 10 accordingly, attach the amended Form 11 to the original Form 11, and return the special tax stamp to the taxpayer. (Sec. 3791, I.R.C.)

§ 194.54 *Stamps for improper periods.* Where a dealer has paid special tax and received a stamp for a certain period, whereas he actually incurred liability to special tax for one or more months prior to such period, the following procedure will govern:

(a) When the period of the liability not covered by the special tax stamp is within the current fiscal year, a remittance should be secured from the taxpayer covering the full period of the liability to June 30 following, plus the ad valorem penalty described in § 194.43, computed on the full amount of the tax. When the remittance is received in the collector's office, an appropriate stamp for the full period of the liability should

be issued. The taxpayer should be advised by the inspector of his privilege of filing a claim on Form 843 for redemption of the stamp covering the shorter period.

(b) When the period of the liability not covered by the special tax stamp is within a past fiscal year, the additional amount due for such period, including the ad valorem penalty described in § 194.43, computed on the basis of the tax for the full period, should be collected and listed for assessment by the collector on his current Distilled Spirits Tax List. When the remittance covering such liability is received by an inspector, a serially-numbered receipt on Form 809 should be issued to the taxpayer in order that he may have evidence of tax-payment for such additional period.

(c) In each instance the taxpayer will file a new return on Form 11, designated "Amended Return," showing the proper period of liability. Appropriate notation should be made by the collector on Record 10. (Sec. 3791, I.R.C.)

§ 194.55 *Public list of taxpayers.* (a) The collector shall maintain and keep conspicuously in his office on Record 10, for public inspection, a list of all persons who have paid special taxes within his district, and shall state thereon the time, place, and business for which such special taxes have been paid. The names on this list shall be the true names and not the fictitious ones under which persons may elect to do business.

(b) All persons shall be entitled to inspect Record 10 in the collector's office at reasonable and proper times, and are not prohibited from copying the names and addresses of special-tax payers, but no person shall use the record to the extent of interfering with the collector's use thereof, or unduly to the exclusion of other persons.

(c) Upon application of any prosecuting officer of any State, county, or municipality, the collector shall furnish a certified copy of Record 10, or such portions thereof as may be requested, for which a fee of $1 for each hundred words or fraction thereof in the copy or copies so requested shall be charged. (Sec. 3275, I.R.C.)

Article XI—Change of location

§ 194.56 *Change of location.* (a) A special-tax payer who, during the taxable period for which special tax was paid, removes his business to a place other than that specified in his original return on Form 11, and stated on his special tax stamp, must register the change with the collector from whom the special tax stamp was purchased, within 30 days after he begins to sell or offer for sale liquors at the new location, by executing a new return on Form 11, designated as "Amended Return," setting forth the time when and the place to which such removal was made, and shall surrender the special tax stamp to the collector for endorsement of the change in location.

(b) When a special-tax payer removes his business to another address within the same collection district, the collector will enter on his Record 10 the new address and the date of removal, and will note the change on the face of the special tax stamp, stating clearly thereon the new location where said business is to be carried on, and will return the special tax stamp to the taxpayer.

(c) When a taxpayer removes his business to a location within a collection district other than that in which the special tax stamp was issued, the collector who issued the special tax stamp will enter on his Record 10 the new address and date of removal, stating clearly the new location where said business is to be carried on, and will transmit the stamp to the collector in charge of the district to which the taxpayer removed. The collector of that district will make entry on his Record 10, as in the case of a new registrant, and note the taxpayer's new address and the collector's name, title, and district, and the date on the special tax stamp, which will be returned to the taxpayer.

(d) A person who removes his place of business and fails to register such removal with the collector, within 30 days after he begins to sell or offer for sale liquors at the new location, will be liable to special tax at the new location computed from the 1st day of the calendar month in which he began business at the new location.

(e) These regulations shall apply to certificates on Form 785 issued in lieu of special tax stamps lost or destroyed. (Sec. 3280, I.R.C.)

Article XII—Change in Proprietorship or Control

§ 194.57 *Sale of business.* A special tax stamp is a receipt for tax, personal to the one to whom issued, and is not transferable from one dealer to another. Where there occurs a change in the proprietorship of a business for which special tax has been paid, a new special tax liability is incurred, except as provided in § 194.61. (Sec. 3250, I.R.C.)

§ 194.58 *Incorporation of business.* (a) Where an individual or a firm engaged in business requiring payment of special tax forms a corporation to take over and conduct the business, the corporation (a separate legal entity) must pay special tax and procure a stamp in its own name.

(b) Where a new corporation is formed to take over and conduct the business of one or more corporations which have paid special tax, the new corporation must pay special tax and procure a stamp in its own name. (Sec. 3250, I.R.C.)

§ 194.59 *Stockholder continuing business of corporation.* A special tax stamp held by a corporation as a liquor dealer cannot cover the same business carried on by one or more of its stockholders after dissolution of the corporation. (Sec. 3250, I.R.C.)

§ 194.60 *Change in name or style of business.* (a) The law requires the payment of but one special tax from the person who carries on the same business at the same place during the same special tax period. A person who pays the requisite special tax upon his business does not incur liability to additional special tax by reason of a mere change in the trade name or style under which such business is conducted, nor by reason of a change in management which involves no change in the proprietorship of the business.

(b) Additional special tax is not required by reason of a change of name or increase in the capital stock of a corporation if the laws of the State of incorporation provide for such changes without the creation of a new corporation.

(c) No additional special tax is required by reason of the sale or transfer of all or a controlling interest in the capital stock of a corporation.

(d) Additional special tax is not required of an unincorporated club by reason of changes in membership, where such changes do not result in the dissolution thereof and the formation of a new club. (Sec. 3250, I.R.C.)

§ 194.61 *Change of Control.* (a) Certain persons other than the special taxpayer may, without incurring additional special tax liability, carry on the same business at the same address for the remainder of the taxable period for which the special tax was paid. To secure such right, the person or persons continuing the business must file with the collector from whom the special tax stamp was purchased, within 30 days after the date on which the successor begins to carry on the business, a return on Form 11, showing the basis of the succession.

(b) Under the conditions indicated above, the persons having such right of succession are as follows:

Death—The widow or child, or executor, administrator, or other legal representative of the taxpayer.

Husband and wife—A husband or wife succeeding to the business of his or her spouse (living).

Insolvency—A receiver or trustee in bankruptcy, or an assignee for benefit of creditors.

Withdrawal from firm—The partner or partners remaining after death or withdrawal of a member.

(c) A person so succeeding to a business for which special tax has been paid, and who fails to register such succession with the collector, within 30 days from the date he begins to carry on the business, will become liable to additional special tax computed from the 1st day of the calendar month in which he began to carry on such business.

(d) These regulations shall apply to certificates on Form 785 issued in lieu of special tax stamps lost or destroyed. (Secs. 3250, 3280, and 3791, I.R.C.)

Article XIII—Exceptions and Exemptions

§ 194.62 *Sales for immediate consumption on premises where sold.* (a) A retail dealer in liquors will not be required to pay special tax as wholesale dealer in liquors solely by reason of making sales of liquors in quantities of 5 wine gallons or more to the same person at the same time if such sales are made for immediate consumption of the liquors on the premises where sold.

(b) A retail dealer in malt liquors will not be required to pay special tax as wholesale dealer in malt liquors solely by reason of making sales of malt liquors in quantities of five gallons or more to the same person at the same time if such sales are made for immediate consumption of the liquors on the premises where sold. (Secs. 3254 (c) (2) and 3250 (d) (2), I.R.C.)

§ 194.63 *Dealers consummating sales of malt liquors at premises of other dealers.* (a) A retail or wholesale dealer in liquors, or a retail or wholesale dealer in malt liquors, who has paid the requisite special tax imposed upon his business, may, without incurring liability for additional special tax, sell fermented malt liquors, at the premises of other dealers, provided the purchaser's place of business is covered by a special tax stamp issued to him to denote the payment of the special tax imposed upon such dealers. The premises of both the selling dealer and the purchasing dealer must be covered by the requisite special tax stamps.

(b) Deliveries of fermented malt liquors may be made by a retail or wholesale dealer in malt liquors from a place of storage, not covered by his special tax stamp, without incurring liability to special tax at such place, provided orders therefor are not accepted at such place of storage, and sales thereof are consummated at the purchaser's place of business covered by a requisite special tax stamp, or orders therefor are accepted at the place where the vendor holds a requisite special tax stamp. (Secs. 3250, 3255 (c), and 3278, I.R.C.)

§ 194.64 *Distillers selling in original stamped packages.* (a) No distiller who has given the required bond and who sells only distilled spirits of his own production at the place of manufacture, or at the place of storage in bond, in the original packages to which the tax-paid stamps are affixed, shall be required to pay the special tax as wholesale liquor dealer on account of such sales.

(b) The expression "in the original packages to which the tax-paid stamps are affixed" excludes from the exemption sales of distilled spirits in any packages other than those which have the distilled spirits tax-paid stamp affixed thereto. The sale of distilled spirits in bottles or other containers by distillers necessitates the payment of special tax. (Sec. 3250 (a) (4), I.R.C.)

§ 194.65 *Sales in original packages by brewers.* (a) A brewer is not required to pay special tax as dealer in malt liquors by reason of selling in the original stamped barrel or keg, whether at the place of manufacture or elsewhere, malt liquors manufactured by him, or purchased and procured by him pursuant to regulations from another brewer in his own barrels or kegs.

(b) Any person holding himself out as an agent of a brewer in selling original stamped packages of beer will become liable to special tax unless it is shown that the beer is the property of the brewer and is sold by him for and on account of the brewer, and not on his own account.

(c) Brewers are required to pay special tax as dealers in malt liquor for the sale of malt liquors packaged in bottles or cans or in containers other than the original stamped barrels or kegs. (Sec. 3250, I.R.C.)

§ 194.66 *Sales by executor, administrator, or other fiduciary.* No special tax shall accrue on a sale of distilled spirits, wines, or malt liquors made by a person who is not otherwise a dealer in liquors, where such liquors have been received by him as executor, administrator, or other fiduciary, if such liquors are sold by such person in one parcel only, or at public auction in parcels of not less than 20 wine gallons. (Sec. 3251 (a), I.R.C.)

§ 194.67 *Sales of liquors received as security for or in payment of a debt.* A person, not otherwise a dealer in liquors, who receives a stock of distilled spirits, wines, or malt liquors as security for or in payment of a debt, may sell such liquors in one parcel only, or at public auction in parcels of not less than 20 wine gallons, without paying special tax. (Sec. 3251 (a), I.R.C.)

§ 194.68 *Sales of liquor levied on by public officer under order of any court or magistrate.* No special tax shall accrue on a sale of distilled spirits, wines, or malt liquors by a person who is not otherwise a dealer in liquors, where such liquors have been levied on by any officer under order of any court or magistrate, and are sold in one parcel only, or at public auction in parcels of not less than 20 wine gallons. (Sec. 3251 (a), I.R.C.)

§ 194.69 *Sales of liquors by retiring partner or by representative of a deceased partner.* No special tax as retail or wholesale dealer shall accrue on a sale made by a retiring partner or the representative of a deceased partner to the incoming, remaining, or surviving partner or partners of a firm. (Sec. 3251 (b), I.R.C.)

§ 194.70 *Sale of entire stock by retail dealers.* (a) A retail dealer in liquors may sell out his entire stock of liquors in one parcel, or he may sell his entire stock of distilled spirits in one parcel, his entire stock of wines in another parcel, and his entire stock of malt liquors in another parcel, without subjecting himself to special tax as a wholesale dealer in liquors.

(b) A retail dealer in malt liquors may sell out his entire stock of malt liquors in one parcel without incurring liability to special tax as a wholesale dealer in malt liquors. (Sec. 3251 (c), I.R.C.)

§ 194.71 *Sales by qualified winemakers.* A winemaker who has qualified as such under internal revenue laws and regulations, and who sells wines of his own production where the same are made, or at his general business office, is not required to pay special tax as a retail or wholesale dealer in liquors: *Provided*, That a winemaker shall not have more than one place of business that shall be exempt from special tax. (Sec. 3250, I.R.C.)

§ 194.72 *Sales by apothecaries and druggists.* Apothecaries and druggists who use wines or spirituous liquors for compounding medicines and in making tinctures which are unfit for use for beverage purposes are not liable to special tax as liquor dealers by reason of the sale of such compounds or tinctures. (Sec. 3250, I.R.C.)

§ 194.73 *Sales by proprietors of industrial alcohol plants or warehouses.* A proprietor of an industrial alcohol plant or bonded warehouse established under the provisions of sections 3100 and 3101, Internal Revenue Code, may sell, or offer for sale, alcohol stored in such plant or warehouse without payment of special tax as retail or wholesale liquor dealer. (Sec. 3103, I.R.C.)

Article XIV—Refund and Redemption of Special Taxes

§ 194.74 *Claims.* (a) Claims for abatement or refund of special taxes and ad valorem penalties erroneously or illegally assessed or collected, and claims for the redemption of special tax stamps shall be filed on Form 843, in duplicate, with the collector. The claim must set forth in detail and under oath each ground upon which it is made, and facts sufficient to apprise the Commissioner of the exact basis thereof. If the claim is for redemption of a special tax stamp, such stamp shall be attached to and made a part of the claim.

(b) No claim for the refund of a special tax or penalty or for the redemption of a special tax stamp shall be allowed unless presented within four years next after the payment of such tax or penalty or the purchase of such stamp.

(c) A special-tax payer who for any reason discontinues business is not entitled to any refund for the unexpired portion of the fiscal year for which the special tax stamp was issued.

(d) A person who pays a special tax as a dealer in malt liquors and who at the time is liable as a dealer in liquors on account of sales of distilled spirits or

wines in addition to malt liquors, and thereafter pays the requisite special tax as a dealer in liquors for the same taxable period, may file a claim for redemption of the special tax stamp issued to him as a dealer in malt liquors.

(e) A person who pays special tax as a dealer in liquors but who actually sells or offers for sale malt liquors only, and later during the same or a subsequent month pays the special tax as a dealer in malt liquors, may not redeem the special tax stamp issued to him as a dealer in liquors. But in such event, a claim for redemption of the special tax stamp as a dealer in malt liquors may be filed. (Secs. 3304, 3770, 3250, and 3254, I.R.C.)

Article XV—Maintenance of Records and Posting of Signs

§ 194.75 *Records to be kept by wholesale liquor dealers.* (a) Every wholesale dealer in liquors who sells distilled spirits in quantities of 5 wine gallons or more to the same person at the same time shall keep Record 52, "Wholesale Liquor Dealer's Record," and render monthly transcripts, Forms 52A and 52B, "Wholesale Liquor Dealer's Monthly Report," and Form 338, "Wholesale Liquor Dealer's Monthly Report (Summary of Forms 52A and 52B)."

(b) Daily entries shall be made on Record 52 of all distilled spirits received and disposed of, as indicated by the headings of the various columns, and in accordance with the instructions printed thereon, not later than the close of business of the day on which the transactions occur: *Provided,* That if the keeping of such separate record is approved by the district supervisor, a wholesale liquor dealer may keep a separate record, such as invoices, of the removal of distilled spirits, showing the removal data required to be entered on Record 52, but the daily entries of the removal of distilled spirits from his premises shall be made on Record 52 not later than the close of business of the following business day.

(c) A dealer who sells wines or malt liquors, or both, in wholesale quantities, and who sells distilled spirits in retail quantities, is not required to keep Record 52 or to file monthly transcripts, Forms 52A and 52B, and report, Form 338.

(d) Wholesale liquor dealers who sell wines and malt liquors only, and wholesale malt liquor dealers are not required to keep Record 52 or to file monthly transcripts, Forms 52A and 52B, and report, Form 338. (Secs. 2857 and 2858, I.R.C.)

§ 194.76 *Separate record of serial numbers of cases.* Serial numbers of cases of distilled spirits disposed of need not be entered on Record 52, provided the proprietor keeps at his place of business a separate record, showing such serial numbers, with necessary identifying data, including the date of removal and the name and address of the consignee, provided the keeping of such record is approved by the district supervisor. Such separate record may be kept in book form (including loose-leaf books) or may consist of commercial papers, such as invoices or bills. Such books, invoices, and bills shall be preserved for a period of four years and in such manner that the required information may be ascertained readily therefrom, and, during such period, shall be available during business hours for inspection and the taking of abstracts therefrom by revenue officers. If a record in book form is kept, entries shall be made on such separate approved record not later than the close of business of the day on which the transactions occur. The dealer shall note in Record 52, in the column for reporting serial numbers of spirits disposed of, "Serial numbers shown on commercial records per authority, dated _____." (Sec. 2857, I.R.C.)

§ 194.77 *Entry of miscellaneous items.* Wholesale liquor dealers may enter on Record 52 as one item the total quantity of different kinds of spirits made up from broken cases sold to the same person on the same day, provided such total quantity is not in excess of 10 gallons. The entry of such items shall be stated as "Miscellaneous" or "Misc." and shall show the date, the name and address of the person to whom sold, and the quantity. The total quantity of such miscellaneous spirits so disposed of during the month shall be reported in the monthly summary, Form 338, as "Miscellaneous": *Provided,* That the wholesale liquor dealer determines by actual inventory the quantity of each kind of spirits remaining on hand at the end of the month. (Sec. 2857, I.R.C.)

§ 194.78 *Place where Record 52 shall be kept.* (a) Except as provided in subsection (b), the wholesale liquor dealer shall keep Record 52 at the place of business covered by his wholesale liquor dealer special tax stamp, if spirits are received and sent out from such premises.

(b) If the place of business covered by the wholesale liquor dealer special tax stamp is not the same premises where the spirits are received and sent out, the wholesale liquor dealer shall keep his Record 52 at the latter place and render transcripts from such place on Forms 52A and 52B and summary report on Form 338: *Provided,* That, if approved by the district supervisor, a wholesale liquor dealer may keep his Record 52 at the place of business covered by the special tax stamp and render transcripts on Forms 52A and 52B and summary report on Form 338 from such place. If, however, the place of business covered by the special tax stamp is not in the same supervisory district as the place where the spirits are received and sent out, Record 52 must be kept at the latter place and transcripts on Forms 52A and 52B and summary report on Form 338 rendered to the district supervisor of that district. (Sec. 2857, I.R.C.)

§ 194.79 *Wholesale liquor dealer maintaining a retail department.* (a) A wholesale liquor dealer who sells distilled spirits at wholesale and at the same premises sells distilled spirits at retail in his capacity as a retail dealer in liquors, and who maintains a separate retail department, shall keep Record 52 at his wholesale department of all distilled spirits there received and disposed of. Distilled spirits transferred from the wholesale department to the retail department shall be reported on Record 52, part 2, as "Transferred to Retail Department." Where it is necessary in the filling of a wholesale order to take liquor out of the retail department, the quantity removed from the retail department must be shown on Record 52, part 1, as "Transferred from Retail Department," and the entire sale shown in Record 52, part 2, as a disposal.

(b) The retail department need not be maintained in a separate room or be partitioned off from the wholesale department, but the retail department must in fact be separate from the wholesale department.

(c) Where a wholesale liquor dealer sells at both wholesale and retail, and does not maintain a separate retail department, all distilled spirits received and disposed of shall be entered on Record 52. (Sec. 2857, I.R.C.)

§ 194.80 *Monthly reports.* (a) A wholesale liquor dealer shall file transcripts of Record 52 on Forms 52A and 52B, and a summary report on Form 338, with the district supervisor, on or before the 10th day of the succeeding month. Record 52 shall be preserved for a period of four years and, during such period, shall be available during business hours for inspection and the taking of abstracts therefrom by any internal revenue officer.

(b) If there be no receipts and disposals of distilled spirits by a wholesale liquor dealer, during any month, it will be necessary to forward monthly summary on Form 338 only to the district supervisor, showing the quantity on hand the 1st day of the month and the quantity on hand the last day of the month and marked "No transactions during month."

When a wholesale liquor dealer discontinues business as such, he shall render monthly reports, Forms 52A and 52B and the summary report on Form 338, covering transactions for the month in which business is discontinued, and mark such reports "Final." Record 52 shall be preserved by the dealer for a period of four years thereafter. (Sec. 2857, I.R.C.)

§ 194.81 *Forms to be provided by users at own expense.* Record 52, Forms 52A, 52B, and 338 will be provided by users at their own expense, but must be in the form prescribed by the Commissioner: *Provided,* That, with the approval

of the Commissioner, they may be modified to adapt their use to tabulating or other mechanical equipment: *Provided further*, That where the form is printed in book form, including loose-leaf books, the instructions may be printed on the cover or the fly leaf of the book instead of on the individual form. (Sec. 2857, I.R.C.)

§ 194.82 *Records to be kept by States.* The provisions of §§ 194.75 to 194.81, inclusive, shall not apply to States and Commonwealths and liquor stores operated by such entities that maintain and make available for inspection by internal revenue officers such records as will enable such officers to trace readily all distilled spirits received and disposed of by them: *Provided*, That such States and Commonwealths, and the liquor stores operated by them, shall, on request of the district supervisor, furnish such transcripts, summaries, and copies of their records as he shall require. (Sec. 2858, I.R.C.)

§ 194.83 *Records to be kept by retail liquor dealers.* (a) Each retail dealer in liquors shall provide, at his own expense, and keep in his place of business a record in book form, or shall keep all invoices or bills for distilled spirits, wines, or malt liquors received, showing the quantity thereof, from whom and the date received. Such records, bills, or invoices, shall be kept for two years after the date of the transactions to which they relate and shall be open to inspection during business hours of the dealer by internal revenue officers upon identification and request.

(b) Retail dealers in malt liquors are not required to keep records of malt liquors received. (Sec. 3252, I.R.C.)

§ 194.84 *Signs to be posted by wholesalers.* (a) Every person engaged in business as wholesale dealer in liquors shall place and keep conspicuously on the outside of his place of business a sign, exhibiting in plain and legible letters, not less than 3 inches in height, painted in oil colors or gilded, and of a proper and proportionate width, the name or firm of the dealer, with the words "Wholesale Liquor Dealer."

(b) In the case of a wholesale liquor dealer who procures and posts a special tax stamp designated "Wholesale Dealer in Wines" or "Wholesale Dealer in Wines and Malt Liquors," the requirements of this section will be met by the posting of a sign of the character and dimensions above prescribed, but with words conforming to the designation of the special tax stamp.

(c) Internal revenue laws do not require the posting of signs by retail dealers in liquors, retail malt liquor dealers, and wholesale malt liquor dealers. (Sec. 2831, I.R.C.)

Article XVI—Strip Stamps

§ 194.85 *Strip stamps required on all bottles.* All distilled spirits, whether domestic or imported, in the possession of wholesale dealers in liquors or retail dealers in liquors must be in bottles or similar containers of a capacity of 1 gallon or less and must bear either a green or red strip stamp on the neck of the bottle passing over the cork, stopper, or cap. (Secs. 2803, 2903, I.R.C.)

§ 194.86. *Destruction of strip stamp on opening bottle.* The strip stamp affixed to containers of distilled spirits shall be destroyed upon the opening of the container: *Provided*, That a portion of the strip stamp shall be left attached to the container while any part of the contents remain therein. (Sec. 2803 (d), I.R.C.)

§ 194.87 *Mutilated or missing red strip stamps.* (a) Unopened bottles containing tax-paid distilled spirits to be stamped under section 2803 (a) of the Internal Revenue Code, from which the (red) strip stamps are missing, or on which the (red) strip stamp is mutilated to the extent that the contents of the bottle are accessible without further destruction of the stamp, or on which the (red) strip stamp is so mutilated that the genuineness thereof cannot be determined, may be restamped pursuant to the following procedure:

(b) The bottle should be set aside by the dealer and proper remittance (1 cent for each stamp of one-half pint or greater, or one-quarter cent for each stamp of less than one-half pint) and application under oath for the necessary stamps submitted with Form 428, "Order for Stamps—Distilled Spirits Bottle Strips," in triplicate, to the district supervisor. Copies of Form 428 may be obtained from the district supervisor. The applicant in every case will state the cause of mutilation or absence of the stamps and submit evidence that the spirits are tax-paid. Such evidence may consist of the invoices covering the purchase of the spirits, in addition to other available documents. The district supervisor will approve the requisition, Form 428, if he is satisfied from the evidence submitted that the tax has been paid on the spirits, and that the mutilation or absence of the stamps has been explained. He will forward the original Form 428 and one copy with the remittance to the proper collector. The collector will enter the serial numbers of the stamps issued and stamp the date of sale on both copies of Form 428. He will send the stamps and the copy of Form 428 to the district supervisor, who will deliver the stamps to the applicant, either by mail or by a representative of his office, together with instructions in regard to affixing them to the containers.

(c) When an internal revenue officer discovers an unopened bottle containing distilled spirits, to which no strip stamp is affixed, or on which the strip stamp is mutilated to the extent that the contents of the bottle are accessible without further destruction of the stamp, or on which the strip stamp is so mutilated that the genuineness thereof cannot be determined, the officer will direct that the bottle be set aside. If the officer is satisfied that the spirits in the bottle have been tax-paid, and the original contents of the bottle have not been replaced or increased by the addition of any substance, he shall secure an affidavit from the proper person setting forth the reason for the absence or mutilation of the stamp, accompanied by documentary evidence, if any, in support thereof. The officer shall assist the person in executing an application on Form 428 in order to procure a strip stamp to be affixed to the bottle, pursuant to the procedure outlined in subsection (b) hereof.

When the inspector has good reason to believe that the distilled spirits have not been tax-paid, or that the original contents of the bottle have been replaced or increased by the addition of a substance, he will seize the spirits for forfeiture.

(d) It will not be necessary to require the replacement of strip stamps where an immaterial portion of the stamp is missing, or where the strip stamp has dropped off a bottle and may be reaffixed thereto by the dealer.

(e) In the case of an opened bottle of distilled spirits from which all portions of the strip stamp have been removed, there will be no necessity to require the restamping of the bottle if the internal revenue officer is satisfied the bottle contains all or a part of its original tax-paid contents only. (Sec. 2803 (d), I.R.C.)

Article XVII—Miscellaneous

§ 194.88 *Purchase or sale of used containers.* The purchase or sale of used liquor bottles, and other authorized marked containers bearing the penalty clause, "Federal Law Forbids Sale or Reuse of This Bottle, and other indicia is prohibited. (Sec. 2871, I.R.C.)

§ 194.89 *Reuse or refilling containers.* No liquor bottle or other authorized container shall be reused for the packaging of distilled spirits, nor shall the original contents, or any portion of such original contents, remaining in a liquor bottle or other authorized container, be increased by the addition of any substance. (Sec. 2871, I.R.C.)

§ 194.90 *Possession of used containers.* The possession of used liquor bottles or other authorized marked containers by any person other than the person who empties the contents thereof is prohibited. This shall not prevent the dealer upon whose premises such bottles or containers may lawfully be emptied from assembling the containers in reasonable quantities upon such premises for the purposes of destruction. (Sec. 2871, I.R.C.)

§ 194.91 *Tapping of beer barrels and kegs.* Fermented malt liquor tax stamps must be affixed by the brewer to all barrels and kegs of beer before removing them from the brewery. Beer

kegs or barrels must be tapped by driving the faucet or tap rod or an air faucet of equal size through the stamp. The stamp thus destroyed must remain on the barrel or keg until it is emptied. (Sec. 3159, I.R.C.)

§ 194.92 *Possession of undestroyed beer stamps.* The possession by any dealer of fermented malt liquor tax stamps which have not been destroyed is evidence of failure on the part of such dealer to destroy such stamps, as required by section 194.91, at the time of tapping of the containers. (Sec. 3159, I.R.C.)

§ 194.93 *Destruction of stamps, marks, and brands on wine containers.* A dealer who empties any receptacle to which wine tax stamps have been affixed shall destroy such stamps by scraping or obliterating immediately on emptying the receptacles to which they are affixed. If the receptacle is a cask, barrel, or keg, the dealer must, in addition to destroying the stamps, scrape or obliterate all marks or brands affixed to such containers immediately upon emptying. (Sec. 3040, I.R.C.)

Article XVIII—Packaging Alcohol for Industrial Purposes

§ 194.94 *Requirements and procedure.* Wholesale dealers in liquors may package alcohol for industrial purposes in containers in excess of 1 wine gallon and less than 5 wine gallons and shall be governed by those provisions of Regulations 11 (26 CFR, Part 189) which pertain to the filing of notice on Form 27–E, the procurement, overprinting as to denomination, attachment, and accounting of strip stamps, and the maintenance of Record 52–D. Form 27–E, properly modified, will be approved by the district supervisor, and will not be forwarded to the Commissioner. Requisitions on Form 428 for strip stamps will be submitted to and approved by the district supervisor. The strip stamps will be transmitted directly by the collector to the wholesale dealer in liquors. The wholesale dealer in liquors shall keep records and render monthly reports on Form 96 showing strip stamps received, used, mutilated, and on hand. Bottling operations will be carried on without supervision of a storekeeper-gauger. Record 52–D, properly modified, will be used for accounting for alcohol received, dumped, and packaged. Preparation of Forms 230 will not be required. (Secs. 2803 and 2871, I.R.C.)

§ 194.95 *Labeling.* The wholesale dealer in liquors packaging alcohol for industrial purposes will affix to such package a label bearing the word "Alcohol," and in conspicuous type the words "For Industrial Use," and showing the proof, the capacity of the container, and his name and address. The wholesaler may incorporate in the label other appropriate statements: *Provided,* That such statements shall not obscure or contradict the data required hereby to be shown on such labels. (Secs. 2803 and 2871, I.R.C.)

[SEAL] GUY T. HELVERING,
Commissioner.

Approved, June 6, 1940.

JOHN L. SULLIVAN,
Acting Secretary of the Treasury.

[F. R. Doc. 40–2291; Filed, June 7, 1940; 12:59 p. m.]

TITLE 32—NATIONAL DEFENSE

CHAPTER I—NATIONAL MUNITIONS CONTROL BOARD, DEPARTMENT OF STATE

PART I—INTERNATIONAL TRAFFIC IN ARMS, AMMUNITION, ETC.

GENERAL REGULATIONS AND SPECIAL PROVISIONS

In compliance with that paragraph of section 12 of the joint resolution of Congress approved November 4, 1939, which requires the Secretary of State to promulgate such rules and regulations with regard to the enforcement of that section as he may deem necessary to carry out its provisions, I hereby amend paragraph (11) [1] of the regulations which I prescribed on November 6, 1939, to read as follows:

§ 1.11 *Applications for licenses.* No person not registered under section 12 of the joint resolution shall engage in the business of exporting or importing any of the arms, ammunition, or implements of war listed in the President's proclamation of May 1, 1937. All persons registered shall obtain from the Secretary of State a license to cover each shipment exported or imported. Blank forms of application for license similar to those printed below will be furnished by the Secretary of State upon request.

Department of State

UNITED STATES OF AMERICA

APPLICATION FOR LICENSE TO EXPORT ARMS, AMMUNITION, OR IMPLEMENTS OF WAR

(Application to be made in duplicate)

ORIGINAL

Applicant's Registration No.	(Insert here name of country of destination)	License No. ____ (For official use only)

GENERAL INSTRUCTIONS

(a) One duplicate application should be made for each complete shipment to any one consignee, and may include more than one commodity, but may not include shipments to more than one country.

(b) Applications should be typewritten, with the exception of signature, but will be considered if written legibly in ink.

(c) Commodities appearing under (7) below should be listed under the number of the pertinent category and category subdivision of that Presidential proclamation enumerating arms, ammunition, and implements of war which is in effect on the date the application is submitted. Each commodity listed should be designated clearly and specifically, the type and model designation being included whenever possible.

(d) A separate value should be given under (8) below for each category, and for each subdivision of a category, which enters into the shipment covered by the application. Values listed should represent the selling price only of the articles exported, and should not include such supplementary costs as packing, freight, etc.

(e) Unsigned applications or applications which omit essential information called for in the numbered spaces will be returned.

(f) When countersigned and impressed with the seal of the Department of State, this application becomes a license.

(g) Any attempt to export a commodity differing in any way from that licensed, or any alteration of a license, except by a duly authorized officer of the Government, is punishable under appropriate acts of Congress. Changes in the information set forth in licenses which have been issued under the seal of the Secretary of State can be effected by amendments which can be made only by the Department of State, or by collectors of customs or postmasters acting under the specific instructions of the Department of State.

DEPARTMENT OF STATE,
Washington, D. C.

(1) Date of application_____

(2) Applicant's reference No._____

The undersigned hereby applies for license to export the commodity described below and warrants the truth of all statements and answers herewith made regarding it.

(3) Name of applicant___ By_____
(To be signed in ink)

(4) Consignee in foreign country:
Name _____ Nationality_____
Address:
Street_____ State or Province_
City _____ Country_____

(5) Purchaser in foreign country:
Name _____ Nationality_____
Address:
Street_____ State or Province_
City _____ Country_____

(6) Quantity	(7) Commodity (to be listed as indicated under instruction (c))	(8) Approximate net value

(9) State the specific purpose for which the material is required:
_____
_____
_____

(10) Check the terms of sale of the commodities listed under (7) to the purchaser named under (5).
☐ Full payment on delivery at factory.
☐ Full payment on delivery at port of exit.
Other terms (explain fully):
_____
_____

(11) License to be sent to:
Name_____
Address: Street_____ City_____ State____

(12) Consignor in United States:
Name_____ Nationality_____
Address: Street_____ City_____ State____

(13) Seller in United States:
Name_____ Nationality_____
Address: Street_____ City_____ State____
Nature of business_____

---

[1] This paragraph, which was published in the FEDERAL REGISTER of November 8, 1939 (4 F.R. 4514), as paragraph (11), has been designated as 22 CFR 1.11 for codification purposes.

(14) Port of exit in the United States from which it is proposed to export the shipment _____.

License is hereby granted to the applicant mentioned herein to export from the United States of America to _____ the commodity as described and in the quantity given, on the following terms and conditions:

This license is not transferable and is *subject to revocation without notice.*

Shipment must be made from port of exit within *1 year* from date of this license as given below under the seal of the Department.

Export licenses must be filed with the collector of customs at the port from which the shipment is departing from the United States prior to the proposed departure.

FOR COLLECTORS OF CUSTOMS AND POSTMASTERS

This license should be returned to the Secretary of State at the end of the month during which the last article of the shipment described therein was exported, or during which notice has been given that the remaining balance will not be shipped, or during which the license has been revoked or has expired. When the entire shipment has been exported, the license should be marked "COMPLETED"; otherwise the returned license should bear a notation stating the reason for its return and the quantity and value of the articles actually shipped.

If partial shipments are made on this license, endorsements by the collectors of customs or postmasters will be made below:

Quantity	Description	Value	Port of exit	Date	Officer

Date of license_____
(For official use only)

(When countersigned and impressed with the seal of the Department of State, this application becomes a license.)

FOR THE SECRETARY OF STATE:
By_____

(For official use only)

Department of State

UNITED STATES OF AMERICA

APPLICATION FOR LICENSE TO IMPORT ARMS, AMMUNITION, OR IMPLEMENTS OF WAR

(Application to be made in duplicate)

ORIGINAL

Applicant's Registration No.	(Insert here name of country of origin)	License No. _ (For official use only)

GENERAL INSTRUCTIONS

(a) One duplicate application should be made for each complete shipment to any one consignee, and may include more than one commodity, but may not include shipments from more than one country.

(b) Applications should be typewritten, with the exception of signature, but will be considered if written legibly in ink.

(c) Commodities appearing under (7) below should be listed under the number of the pertinent category and category subdivision of that Presidential proclamation enumerating arms, ammunition, and implements of war which is in effect on the date the application is submitted. Each commodity listed should be designated clearly and specifically, the type and model designation being included whenever possible.

(d) A separate value should be given under (8) below for each category, and for each subdivision of a category, which enters into the shipment covered by the application. Values listed should represent the selling price only of the articles imported, and should not include such supplementary costs as packing, freight, etc.

(e) Unsigned applications or applications which omit essential information called for in the numbered spaces will be returned.

(f) When countersigned and impressed with the seal of the Department of State, this application becomes a license.

(g) Any attempt to import a commodity differing in any way from that licensed, or any alteration of a license, except by a duly authorized officer of the Government, is punishable under appropriate acts of Congress. Changes in the information set forth in licenses which have been issued under the seal of the Secretary of State can be effected by amendments which can be made only by the Department of State, or by collectors of customs or postmasters acting under the specific instructions of the Department of State.

DEPARTMENT OF STATE,
Washington, D. C.

(1) Date of application_____
(2) Applicant's reference No. _____

The undersigned hereby applies for license to import the commodity described below and warrants the truth of all statements and answers herewith made regarding it.

(3) Name of applicant___ By_____
(To be signed in ink)

(4) Consignor in foreign country:
Name _____ Nationality_____
Address:
Street_____ State or Province_
City _____ Country_____

(5) Seller in foreign country:
Name _____ Nationality_____
Address:
Street_____ State or Province_
City _____ Country_____

(6) Quantity	(7) Commodity (to be listed as indicated under instruction (c))	(8) Approximate net value

(9) State the specific purpose for which the material is required:
_____
_____
_____

(10) Check the terms of sale of the commodities listed under (7) to the purchaser named under (13).
☐ Full payment prior to shipment from foreign country.
☐ Full payment on delivery at port of entry in the United States.
Other terms (explain fully):
_____
_____

(11) License to be sent to:
Name_____
Address: Street_____ City_____ State____

(12) Consignee in United States:
Name_____ Nationality_____
Address: Street_____ City_____ State____
Nature of business_____

(13) Purchaser in United States:
Name_____ Nationality_____
Address: Street_____ City_____ State____
Nature of business_____

(14) Port of entry in the United States through which it is proposed to import the shipment _____

License is hereby granted to the applicant mentioned herein to import into the United States of America from _____ the commodity as described and in the quantity given, on the following terms and conditions:

This license is not transferable and is *subject to revocation without notice.*

Shipment must be received at the port of entry within 1 year from date of this license as given below under the seal of the Department.

FOR COLLECTORS OF CUSTOMS AND POSTMASTERS

This license should be returned to the Secretary of State at the end of the month during which the last article of the shipment described therein was imported, or during which notice has been given that the remaining balance will not be shipped, or during which the license has been revoked or has expired. When the entire shipment has been imported, the license should be marked "COMPLETED"; otherwise the returned license should bear a notation stating the reason for its return and the quantity and value of the articles actually imported.

If partial shipments are received on this license, endorsements by the collectors of customs will be made below:

Description	Quantity	Number of articles	Value	Port of entry	Date	Name of officer

Date of license_____
(For official use only)

(When countersigned and impressed with the seal of the Department of State, this application becomes a license.)

FOR THE SECRETARY OF STATE:

By_____

(For official use only)

(Sec. 12, Public Res. 54, 76th Cong., 2d sess., approved Nov. 4, 1939)

CORDELL HULL,
Secretary of State.

JUNE 7, 1940.

[F. R. Doc. 40-2298; Filed, June 10, 1940; 10:19 a. m.]

TITLE 33—NAVIGATION AND NAVIGABLE WATERS

CHAPTER III—BUREAU OF MARINE INSPECTION AND NAVIGATION

[Order No. 32]

ANCHOR LIGHTS

JUNE 8, 1940.

Section 311.11, *Anchor Lights,* is amended to read as follows:

§ 311.11 *Anchor lights.* A vessel under one hundred and fifty feet in length when at anchor shall carry forward, where it can best be seen, but at a height not exceeding twenty feet above the hull, a white light in a lantern so constructed as to show a clear, uniform, and unbroken light visible all around the horizon at a distance of at least one mile: *Provided,* That the Secretary of War may, after investigation, by rule, regulation, or order, designate such areas as he

may deem proper as "special anchorage areas"; such special anchorage areas may from time to time be changed, or abolished, if after investigation the Secretary of War shall deem such change or abolition in the interest of navigation: *Provided further*, That vessels not more than sixty-five feet in length when at anchor in any such special anchorage area shall not be required to carry or exhibit the white light required by this article.

A vessel of one hundred and fifty feet or upward in length, when at anchor, shall carry in the forward part of the vessel, at a height of not less than twenty and not exceeding forty feet above the hull, one such light, and at or near the stern of the vessel, and at such a height that it shall be not less than fifteen feet lower than the forward light, another such light.

The length of a vessel shall be deemed to be the length appearing in her certificate of registry.

Section 321.9, *Lights of vessels at anchor*, is amended to read as follows:

§ 321.9 *Lights of vessels at anchor.* A vessel under one hundred and fifty feet register length, when at anchor, shall carry forward, where it can best be seen, but at a height not exceeding twenty feet above the hull, a white light constructed so as to show a clear, uniform, and unbroken light visible all around the horizon at a distance of at least one mile: *Provided*, That the Secretary of War may, after investigation, by rule, regulation, or order designate such areas as he may deem proper as "special anchorage areas"; such special anchorage areas may from time to time be changed, or abolished, if after investigation the Secretary of War shall deem such change or abolition in the interest of navigation: *Provided further*, That vessels not more than sixty-five feet in length, when at anchor, in any such special anchorage area shall not be required to carry or exhibit the white light required by this article.

A vessel of one hundred and fifty feet or upward in register length, when at anchor, shall carry in the forward part of the vessel, two white lights at the same height of not less than twenty and not exceeding forty feet above the hull and not less than ten feet apart horizontally, and athwartships, except that each need not be visible all around the horizon but so arranged that one or the other, or both, shall show a clear, uniform, and unbroken light and be visible from any angle of approach at a distance of at least one mile; and at or near the stern of the vessel two similar lights, similarly arranged and at such a height that they shall not be less than fifteen feet lower than the forward lights. In addition the four anchor lights above specified, at least one white deck light shall be displayed in every interval of one hundred feet along the deck measuring from the forward lights, said deck lights to be not less than two feet above the deck and arranged, so far as intervening structures will permit, so as to be visible from any angle of approach.

Section 331.10, *Lights of vessels at anchor*, is amended to read as follows:

§ 331.10 *Lights of vessels at anchor.* All vessels, whether steam vessels or sail vessels, when at anchor in roadsteads or fairways, shall, between sunset and sunrise, exhibit where it can best be seen, but at a height not exceeding twenty feet above the hull, a white light in a globular lantern of eight inches in diameter, and so constructed as to show a clear, uniform, and unbroken light, visible all around the horizon, and at a distance of at least one mile: *Provided*, That the Secretary of War may, after investigation, rule, regulation, or order, designate such areas as he may deem proper as "special anchorage areas"; such special anchorage areas may from time to time be changed or abolished, if after investigation the Secretary of War shall deem such change or abolition in the interest of navigation: *Provided further*, That vessels not more than sixty-five feet in length when at anchor in any such special anchorage area shall not be required to carry or exhibit the white light required by this article.

NOTE: §§ 311.11, 321.9 and 331.10 are the identical statutory rules as are contained in the Act of April 22, 1940 (Public 471, 76th Congress).

[SEAL] SOUTH TRIMBLE, Jr.,
Acting Secretary of Commerce.

[F. R. Doc. 40-2303; Filed, June 10, 1940; 11:22 a. m.]

TITLE 46—SHIPPING

CHAPTER I—BUREAU OF MARINE INSPECTION AND NAVIGATION

[Order No. 30]

DOCUMENTATION, ENTRANCE AND CLEARANCE OF VESSELS, ETC.

AMENDMENT

JUNE 7, 1940.

Section 1.1, *Customs ports authorized to issue marine documents*[1] is hereby amended in the following respect:

The designation of the customs port of Hyder, Alaska, as a port of documentation is revoked effective June 22, 1940, and the word "Hyder" as it appears under "Alaska (31)" is deleted therefrom.

The port of Ketchikan, Alaska, will thereafter be the homeport of all vessels whose homeport on June 22, 1940, is Hyder, Alaska.

In the event that owners of vessels desire that a port other than Ketchikan be designated as the homeport of their vessels, the approval of the Director, Bureau of Marine Inspection and Navigation, Department of Commerce, should be obtained.

Section 161 R.S. (6 U.S.C. 22); Sections 2 and 3 of the Act of July 5, 1884 (23 Stat. 118) (46 U.S.C. 2 and 3)

[SEAL] EDWARD J. NOBLE,
Acting Secretary of Commerce.

[F. R. Doc. 40-2293; Filed, June 7, 1940; 3:53 p. m.]

[1] 5 F.R. 746.

[Order No. 31]

DOCUMENTATION, ENTRANCE AND CLEARANCE OF VESSELS, ETC.

JUNE 7, 1940.

Subsection (a) of § 1.31, *Renewal of License*, is hereby amended to read as follows:

(a) A license granted to any vessel must be presented to the collector of the district in which the vessel may then be, within three days after its expiration, or, if the vessel be at sea at that time, within three days from her first arrival within a district. If the master fails to deliver the license, as herein required, he shall be liable to a penalty of $10 which, upon application, may be mitigated or remitted by the Secretary of Commerce.

(R.S. 4325 as amended, 46 U.S.C. Sup., 267; R.S. 161, 5 U.S.C. 22)

[SEAL] SOUTH TRIMBLE, Jr.,
Acting Secretary of Commerce.

[F. R. Doc. 40-2295; Filed, June 8, 1940; 10:23 a. m.]

Notices

DEPARTMENT OF THE INTERIOR.

Bituminous Coal Division.

[Docket No. 343-FD]

IN THE MATTER OF THE APPLICATION OF THE PORTSMOUTH CLAY PRODUCTS COMPANY FOR EXEMPTION

ORDER GRANTING RENEWAL OF EXEMPTION

The Portsmouth Clay Products Company of Portsmouth, Ohio, Applicant herein, having on April 29, 1938 filed with the National Bituminous Coal Commission a verified application for exemption with respect to certain bituminous coal produced by the Applicant at its mine located in Lawrence County, Ohio, and transported by the Applicant to itself for consumption by it in its clay products plant located at South Webster, in Scioto County, Ohio;

The Commission, having on May 10, 1939 entered an order pursuant to a hearing held on said application at Zanesville, Ohio on May 24, 1938, in Docket No. 343-FD, ordering that the provisions of section 4, II (1) of the Bituminous Coal Act of 1937 apply to the bituminous coal produced by the Applicant at its mine located in Law-

rence County, Ohio, and consumed by it in the manufacture of clay products in its plant located at South Webster, Ohio, and that such coal shall not be deemed subject to the provisions of section 4 of the Bituminous Coal Act of 1937, and further ordering the Applicant to apply annually thereafter and at such other times as the Commission may require, for removal of said order, and to file such accompanying reports as will enable the Commission to determine whether the facts as found in said order continue to exist;

Applicant, on May 25, 1940, having filed with the Bituminous Coal Division an application for renewal of said order, which application contains a statement of the quantities of coal produced by the Applicant for the period of one year preceding the date of the application for renewal, at its mine located in Lawrence County, Ohio, and a statement that the facts set forth in the application for exemption filed April 29, 1938 remain unchanged;

The Director having determined that the conditions supporting the exemption granted by the order dated May 10, 1939 continue to exist;

It is ordered, That the application filed by the Applicant for the renewal of said order dated May 10, 1939 be and the same is hereby granted;

Provided, however, That the said order dated May 10, 1939, shall automatically terminate and expire:

1. Unless the Applicant on or before December 21, 1940, files with the Director a verified report for the six month period ending December 6, 1940, containing the following information which the Director hereby finds to be necessary and appropriate to enable him to determine whether the conditions supporting the exemption granted to the Applicant continue to exist:

(a) The full name and business address of the Applicant and the name and location of the mine covered by this application;

(b) The total tonnage of bituminous coal produced by the Applicant during the preceding six months at such mine;

(c) The total tonnage of such production which was consumed by the Applicant, and the nature and purpose of such consumption;

(d) A statement that all of the facts set forth in the original application for exemption filed April 29, 1938 remain true and correct.

2. Unless the Applicant shall immediately notify the Director upon:

(a) Any change in the ownership of the mine from which the coal in question was produced, or in the ownership of the plant or factory or other facilities at which the coal is consumed;

(b) Any change in the agency or instrumentality through which the coal is being produced on the date of this order.

It is further ordered, That the Director at any time, upon his own motion or upon the petition of any interested person, may direct the Applicant to show cause why the exemption granted by the order of May 10, 1939 should not be terminated. Any persons filing such a petition shall serve a copy thereof upon the Applicant herein.

Dated, June 6, 1940.

[SEAL] H. A. GRAY,
Director.

[F. R. Doc. 40-2296; Filed, June 8, 1940; 11:45 a. m.]

DEPARTMENT OF AGRICULTURE.

Rural Electrification Administration.

[Administrative order No. 467]

CHANGE OF PROJECT DESIGNATION

MAY 29, 1940.

I hereby amend Administrative Order No. 463,[1] dated May 22, 1940, by changing the project designation "North Carolina 0-R9040W2 Brunswick" appearing therein to read "North Carolina 0040W2 Brunswick."

[SEAL] HARRY SLATTERY,
Administrator.

[F. R. Doc. 40-2294; Filed, June 8, 1940; 9:34 a. m.]

[Administrative Order No. 468]

ALLOCATION OF FUNDS FOR LOANS

MAY 31, 1940.

By virtue of the authority vested in me by the provisions of Section 4 of the Rural Electrification Act of 1936, as amended, I hereby allocate, from the sums authorized by said Act, funds for loans for the projects and in the amounts as set forth in the following schedule:

Project designation:	*Amount*
New Mexico 0012A2 Otero	$5,000
Virginia 0036G1 Prince George	27,000
Virginia 0037G1 Nansemond	43,000

[SEAL] HARRY SLATTERY,
Administrator.

[F. R. Doc. 40-2297; Filed, June 8, 1940; 11:46 a. m.]

DEPARTMENT OF LABOR.

Children's Bureau.

NOTICE OF HEARING ON PROPOSED FINDING AND ORDER RELATING TO THE EMPLOYMENT OF MINORS BETWEEN 16 AND 18 YEARS OF AGE IN COAL-MINE OCCUPATIONS

JUNE 7, 1940.

Whereas, section 12 (a) of the Fair Labor Standards Act of 1938 (Act of June 25, 1938, chapter 676, 52 Stat. 1060, U.S.C., Supp. IV, title 29, sec. 201) prohibits the shipment or delivery for shipment of goods in commerce, as defined in the Act, which are produced in establishments situated in the United States in or about which within 30 days prior to the removal of such goods therefrom any oppressive child labor has been employed; and

Whereas, section 3 (l) of the said Act, which defines oppressive child labor, provides in part as follows:

"(l) 'Oppressive child labor' means a condition of employment under which (1) any employee under the age of sixteen years is employed by an employer * * * in any occupation, or (2) any employee between the ages of sixteen and eighteen years is employed by an employer in any occupation which the Chief of the Children's Bureau in the Department of Labor shall find and by order declare to be particularly hazardous for the employment of children between such ages or detrimental to their health or well-being; * * *."

and

Whereas, the Chief of the Children's Bureau issued on November 3, 1938, a regulation prescribing the "Procedure Governing Determinations of Hazardous Occupations";[1] and

Whereas, pursuant to the said regulation, an investigation has been conducted with respect to the hazardous nature of coal-mine occupations with special reference to the employment of minors between 16 and 18 years of age; and

Whereas, a report of the investigation has been submitted to the Chief of the Children's Bureau and is available for public inspection; and

Whereas, a finding and order relating to coal-mine occupations has been proposed for final adoption by the Chief of the Childern's Bureau under the authority of section 3 (l) of the said Act,

Now, therefore, notice is hereby given of a public hearing to be held on June 28, 1940, commencing at 10 o'clock a. m. in Room 3229, United States Department of Labor Building, Fourteenth Street and Constitution Avenue, Washington, D. C., before a presiding officer to be designated hereafter, at which interested parties will be given opportunity to appear and to be heard with respect to the said report and proposed finding and order. All parties desiring to appear at the hearing are requested to notify the Childern's Bureau at least 5 days prior to the date fixed for hearing.

Copies of the said report and proposed finding and order are available to the public at the office of the Children's Bureau, United States Department of Labor, Washington, D. C.

---

[1] 5 F.R. 2088.

[1] 3 F.R. 2640.

PROPOSED FINDING AND ORDER

TITLE 29—LABOR

CHAPTER IV—CHILDREN'S BUREAU

CHILD LABOR

PART 422—OCCUPATIONS PARTICULARLY HAZARDOUS FOR THE EMPLOYMENT OF MINORS BETWEEN 16 AND 18 YEARS OF AGE OR DETRIMENTAL TO THEIR HEALTH OR WELL-BEING

§ 422.3 *Coal-mine occupations*—(a) *Finding of fact.* By virtue of and pursuant to the authority conferred by section 3 (l) of the Fair Labor Standards Act of 1938[1] and pursuant to the regulation prescribing the "Procedure Governing Determinations of Hazardous Occupations";[2] an investigation having been conducted with respect to the hazards for minors between 16 and 18 years of age in employment in coal-mine occupations; a report of the investigation having been submitted to the Chief of the Children's Bureau showing that:

"1. Work in or about coal mines involves an exceptionally high degree of accident risk, in comparison not only with manufacturing as a whole but also with most other industries for which adequate injury statistics are available.

"2. In risk of fatal injury, coal-mine work exceeds manufacturing to an even greater degree than it does in the risk of disabling injuries in general.

"3. The high accident risk in coal-mine work extends to both the anthracite and bituminous industries and involves all types of coal-mine operations—underground, open-cut, and surface work.

"4. All underground occupations, all occupations in open-cut operations, and all surface occupations, with the apparent exception of slate picking and work in offices and in repair and maintenance shops located on the surface, involve exposure to serious accident hazards.

"5. The accident risk in coal-mine work is probably particularly high for young persons, who are characteristically lacking in the experience and caution needed for work in or about coal mines.

"6. State legislation, which reflects public recognition of the particular hazards of coal-mine work for young people, has established higher minimum-age standards for work in or about coal mines than for general employment in the majority of the coal-producing States.

"7. Employment policies, as developed by operators and through union agreements in the coal-mining industry, frequently recognize a minimum age for coal-mine work that is higher than that established by law.

"8. Many safety engineers, mine inspectors, and other experts consulted have expressed the opinion that, in view of the hazards of coal-mine work, minors under 18 should not be employed at either underground or surface work. Many others who were of the same opinion with regard to underground work believed that certain surface occupations were not particularly hazardous and should be permitted for minors between 16 and 18 years of age;"

* * * * *

Now, therefore, I, Katharine F. Lenroot, Chief of the Children's Bureau of the United States Department of Labor, hereby find that all occupations in or about any coal mine, except the occupation of slate or other refuse picking at a picking table in a tipple or breaker or occupations requiring the performance of duties solely in offices or in repair or maintenance shops located in the surface part of any coal-mining plant, are particularly hazardous for the employment of minors between 16 and 18 years of age.

(b) *Order.* Accordingly, I hereby declare that all occupations in or about any coal mine, except the occupation of slate or other refuse picking at a picking table in a tipple or breaker or occupations requiring the performance of duties solely in offices or in repair or maintenance shops located in the surface part of any coal-mining plant, are particularly hazardous for the employment of minors between 16 and 18 years of age.

Definitions. For the purpose of this order—

(1) The term "coal" shall mean any rank of coal, including lignite, bituminous, and anthracite coals.

(2) The term "all occupations in or about any coal mine" shall mean all types of work performed in any underground working, open pit, or surface part of any coal-mining plant that contribute to the extraction, grading, cleaning, or other handling of coal.

This order shall not justify noncompliance with any Federal or State law or municipal ordinance establishing a higher standard than the standard established herein. This order shall become effective on September 1, 1940, and shall be in force and effect until amended or repealed by order hereafter made and published by the Chief of the Children's Bureau.

[SEAL] KATHARINE F. LENROOT,
Chief.

[F. R. Doc. 40-2302; Filed, June 10, 1940; 10:59 a. m.]

[1] Act of June 25, 1938, c. 676, 52 Stat. 1060, U.S.C., Supp. IV, ti. 29, sec. 201.

[2] Issued November 3, 1938, pursuant to authority conferred by section 3 (l) of the Fair Labor Standards Act of 1938, published in 3 F.R. 2640, November 5, 1938.

Wage and Hour Division.

NOTICE OF OPPORTUNITY TO PETITION FOR REVIEW OF DETERMINATION THAT THE NORTHERN BRANCH OF THE CRUSHED STONE INDUSTRY IS, AND THE SOUTHERN BRANCH OF THAT INDUSTRY IS NOT, AN INDUSTRY OF A SEASONAL NATURE

Whereas, applications have been made by the National Crushed Stone Association and sundry other parties, under section 7 (b) (3) of the Fair Labor Standards Acts of 1938, and Regulations, Part 526, as amended, (Regulations applicable to Industries of a Seasonal Nature), issued by the Administrator thereunder, for partial exemption of the crushed stone industry from the maximum hours provisions of sections 7 (a) of said Act pursuant to section 7 (b) (3) applicable to industries found by the Administrator to be of a seasonal nature; and

Whereas, a public hearing on said applications was held before Harold Stein, the representative of the Administrator, duly authorized to take testimony, hear argument and determine whether or not the crushed stone industry is an industry of a seasonal nature within the meaning of Section 7 (b) (3) of the Fair Labor Standards Act of 1938, and Part 526 of Regulations issued thereunder; and

Whereas, following such hearing, the said Harold Stein duly made his findings of fact and determined as follows:

1. There is a branch of the crushed stone industry (as defined herein) wherein the plants normally shut down for about six months each year, except for an insubstantial amount of production that may be produced shortly before or shortly after the main production season. This branch is located in the colder and, in general, more northerly parts of the United States; and

2. There is a southern branch of the industry wherein the plants do not shut down at all or do not normally shut down for a substantial period each year; and

3. The plants in the northern branch cease operation annually at a regularly recurring season of the year, except for sales, maintenance, and similar work, because the materials used by the industry are not available for excavation, handling and processing in the form in which they must be excavated, handled, and processed, i. e., as unfrozen ledges, and banks of blasted rock, because of climatic factors; and

4. The northern branch of the crushed stone industry is an industry of a seasonal nature within the meaning of Section 7 (b) (3) of the Act and Part 526 of Regulations issued thereunder; and

5. The southern branch of the crushed stone industry is not an industry of a seasonal nature within the meaning of the Act and the Regulations; and

6. For the purpose of this Determination the crushed stone industry shall mean the blasting and excavating of stone for crushing from surface or open cuts, the transportation, handling, and crushing of such stone, and the sizing, washing, and grading of crushed stone, together with other necessary processing incidental thereto.

7. For the purpose of this Determination the northern branch of the crushed stone industry shall include all plants located in counties that lie within the isothermic belt below 25 degrees Fahrenheit or are touched by the 25 degree isotherm on Figure 5 of the American Atlas

of Agriculture issued by the United States Department of Agriculture. The said counties are listed in Appendix A attached hereto and incorporated herewith by reference.

8. This Determination shall be without prejudice to a supplementary Determination enlarging the scope of the Northern branch by the inclusion therein of such plants or groups of plants, if any, as operate in the same manner and for the same reasons as the plants in the Northern branch described in paragraphs 1 and 3 above.

Whereas, said Findings and Determination were duly filed with the Administrator on May 27, 1940, and are now on file in Room 5144, Department of Labor Building, Washington, D. C., and available for examination by all interested parties:

Now, therefore, pursuant to the provisions of § 526.7 of the aforesaid Regulations, notice is hereby given that any person aggrieved by the said Determination may, within fifteen days after the date this notice appears in the FEDERAL REGISTER, file a petition with the Administrator requesting that he review the action of the said representative upon the record of hearing before the said representative.

Signed at Washington, D. C., this 5th day of June, 1940.

BAIRD SNYDER,
Acting Administrator.

APPENDIX A

A. All counties in the States of Iowa, Maine, Minnesota, Montana, New Hampshire, North Dakota, South Dakota, Utah, Vermont, Wisconsin, and Wyoming.

B. All the counties in the State of Colorado except the counties of Adams, Arapahoe, Baca, Bent, Cheyenne, Crowley, Denver, Douglas, Elbert, Kiowa, Kit Carson, Lincoln, Logan, Morgan, Otero, Phillips, Prowers, Pueblo, Sedgwick, Washington, Weld, and Yuma.

All the counties in the State of Connecticut except the counties of Middlesex, New London, Tolland, and Windham.

All the counties in the State of Idaho except the counties of Ada, Benewah, Canyon, Gooding, Jerome, Latah, Lewis, Lincoln, Minidoka, Nez Perce, Owyhee, Payette, and Twin Falls.

All the counties in the State of Michigan except the counties of Berrian and Monroe.

All the counties in the State of Nebraska except the counties of Adams, Banner, Buffalo, Chase, Cheyenne, Clay, Dawson, Deuel, Dundy, Franklin, Frontier, Furnas, Gosper, Hall, Harlan, Hayes, Hitchcock, Jefferson, Kearney, Kimball, Nuckolls, Pawnee, Perkins, Phelps, Redwillow, Richardson, Thayer, and Webster.

All the counties in the State of New York except the counties of Genesee, Monroe, Nassau, Niagara, Orleans, Rockland, Seneca, Suffolk, Wayne, Westchester, and all the counties of the City of New York.

C. The following counties in the following states:

State of Illinois. Boone, Bureau, Carroll, Cook, DeKalb, DuPage, Henderson, Henry, Jo Daviess, Kane, Kendall, Knox, Lake, La Salle, Lee, McHenry, Marshall, Mercer, Ogle, Peoria, Putnam, Rock Island, Stark, Stephenson, Warren, Whiteside, Will, and Winnebago.

State of Indiana. Allen, DeKalb, Elkhart, Koschiusko, Lagrange, Marshall, Noble, Saint Joseph, Steuben, and Whitley.

State of Massachusetts. Berkshire, Franklin, Hampden, Hampshire, Middlesex, and Worcester.

State of Missouri. Atchison, Gentry, Harrison, Holt, Mercer, Nodaway, Putnam, Schuyler, Scotland, Sullivan, and Worth.

State of Nevada. Elko, Eureka, and White Pine.

State of New Mexico. Colfax, Nora, Rio Arriba, Santa Fe, and Taos.

State of Ohio. Williams.

State of Oregon. Baker, Clackamas, Deschutes, Grant, Hood River, Jefferson, Lane, Linn, Marion, Umatilla, Union, and Wasco.

State of Pennsylvania. Bradford, Erie, Lackawanna, McKean, Pike, Potter, Susquehanna, Tioga, Warren, Wayne, and Wyoming.

State of Washington. Chelan, Ferry, King, Kittitas, Lewis, Okanogan, Pend Oreille, Pierce, Skagit, Skamania, Snohomish, Spokane, Stevens, Whatcom, and Yakima.

[F. R. Doc. 40-2292; Filed, June 7, 1940; 3:23 p. m.]

NOTICE OF ADMINISTRATOR'S DETERMINATION GRANTING APPLICATION OF SALANT & SALANT, INC., FOR A SPECIAL CERTIFICATE TO PERMIT THE EMPLOYMENT OF 108 ADDITIONAL LEARNERS AT WAGE RATES LESS THAN THE MINIMUM PROVIDED UNDER SECTION 6 OF THE FAIR LABOR STANDARDS ACT OF 1938 FOR PLANT EXPANSION AT LAWRENCEBURG, TENNESSEE

Whereas, application having been made by Salant & Salant, Inc., 56 Worth Street, New York, New York, for a Special Certificate to permit the employment at wage rates less than the minimum provided by section 6 of the Fair Labor Standards Act of 1938, of 108 additional learners for plant expansion at Lawrenceburg, Tennessee, and

Whereas, on December 11, 1939, following a protest against the issuance of such Special Certificate duly filed by the Amalgamated Clothing Workers Union, Merle D. Vincent, as presiding officer, duly authorized by the Administrator of the Wage and Hour Division to issue or deny Special Certificates for the employment of learners at subminimum rates, held an informal conference hearing to determine whether said requested Special Certificate should be issued, and

Whereas, on the basis of said conference the presiding officer duly made findings and determination [1] which denied the aforementioned application, and on January 16, 1940, filed same with the Administrator in Room 5144, United States Department of Labor Building, where copies of said findings and determination are available for examination by interested parties, and

Whereas, following the filing of a petition by Salant & Salant, Inc., 56 Worth Street, New York, New York, pursuant to Section 522.13 of the Regulations of the Wage and Hour Division a review of said findings and determination by the Administrator was granted, and

Whereas, on the basis of the entire record and the briefs submitted, I find that the denial of the aforementioned application by the presiding officer was in error and that it is necessary in order to prevent curtailment of opportunities for employment to issue a Special Certificate to the applicant authorizing the employment of 108 additional learners in stitching machine operations for expansion of the applicant's plant at Lawrenceburg, Tennessee, pursuant to Part 522 of the Regulations of the Wage and Hour Division and the terms and conditions heretofore determined to be applicable to this industry in the Findings and Order of the Administrator concerning Learner Certificates in the Apparel Industry issued October 10, 1939,

Now, therefore, it is hereby ordered, That the Director of the Hearings Branch shall issue a Special Certificate to Salant & Salant, Inc., authorizing the employment of learners in accordance with this determination.

Signed at Washington, D. C., this 10 day of June, 1940.

PHILIP B. FLEMING,
Administrator.

[F. R. Doc. 40-2304; Filed, June 10, 1940; 11:22 a. m.]

NOTICE OF ISSUANCE OF SPECIAL CERTIFICATES FOR THE EMPLOYMENT OF LEARNERS IN THE CHERRY PACKING INDUSTRY.

Notice is hereby given that Special Certificates authorizing the employment of learners at hourly wages lower than the minimum rate applicable under section 6 of the Fair Labor Standards Act of 1938 are issued pursuant to section 14 of the said Act and § 522.5 (b) of Regulations Part 522 (4 F. R. 2088), as amended (4 F.R. 4226), to the employers listed below effective June 11, 1940. These Certificates are issued upon their representations that experienced workers for the learner occupations are not available and that they are actually in need of learners at subminimum rates in order to prevent curtailment of opportunities for employment. These Certificates may be can-

[1] 5 F.R. 716.

celed in the manner provided for in § 522.5 (b) of the Regulations and as indicated on the Certificate. Any person aggrieved by the issuance of any of these Certificates may seek a review of the section taken in accordance with the provisions of § 522.5 (b).

The following firms are hereby authorized to employ as learners not more than 50% of the total number of packers in the occupation of cherry packing for a learning period not to exceed four (4) weeks at a wage rate of not less than 22½ cents per hour.

Grandview Cold Storage Company, Grandview, Washington; J. M. Wade, North Wenatchee Avenue, Wenatchee, Washington; Marsh Fruit Company, Buena, Washington; Marsh Fruit Company, Yakima, Washington; Marsh Fruit Company, Zillah, Washington; Perham Fruit Company, Yakima, Washington; Perham Fruit Company, Zillah, Washington; Richey and Gilbert Company, North First Avenue, Yakima, Washington;

The following firms are hereby authorized to employ the number of learners as indicated opposite their names in the occupation of cherry packing for a learning period not to exceed four (4) weeks at a wage rate of not less than 22½ cents per hour:

Pacific Fruit Produce Company, Yakima, Washington (100 learners); Stadelman Fruit Company, Yakima, Washington (35 learners); W. E. Roche Fruit Company, Yakima, Washington (75 learners); Western Fruit and Produce Company, Yakima, Washington (100 learners); Yakima County Horticultural Union, Yakima, Washington (100 learners); Yakima Fruit Growers Association, Yakima, Washington (100 learners).

These Certificates expire July 9, 1940.

Signed at Washington, D. C., this 10th day of June 1940.

GUSTAV PECK,
Authorized Representative,
of the Administrator.

[F. R. Doc. 40-2315; Filed, June 10, 1940; 11:53 a. m.]

NOTICE OF ISSUANCE OF SPECIAL CERTIFICATES FOR THE EMPLOYMENT OF LEARNERS

Notice is hereby given that Special Certificates authorizing the employment of learners at hourly wages lower than the minimum wage rate applicable under section 6 of the Fair Labor Standards Act of 1938 are issued under section 14 of the said Act and § 522.5 of Regulations, Part 522, as amended, to the employers listed below effective June 11, 1940. These Certificates may be canceled in the manner provided for in the Regulations and as indicated in the Certificate. Any person aggrieved by the issuance of any of these Certificates may seek a review of the action taken in accordance with the provisions of §§ 522.13 or 522.5 (b), whichever is applicable of the aforementioned Regulations.

The employment of learners under these Certificates is limited to the occupations, learning periods, and minimum wage rates specified in the Determination or Order for the Industry designated below opposite the employer's name and published in the FEDERAL REGISTER as here stated:

Regulations, Part 522, May 23, 1939 (4 F.R. 2088), and as amended October 12, 1939 (4 F.R. 4226).

Hosiery Order, August 24, 1939 (4 F.R. 3711).

Apparel Order, October 12, 1939 (4 F.R. 4225).

Knitted Wear Order, October 24, 1939 (4 F.R. 4351).

Textile Order, November 8, 1939 (4 F.R. 4531), as amended April 27, 1940 (5 F.R. 1586).

Glove Order, February 20, 1940 (5 F.R. 714).

NAME AND ADDRESS OF FIRM, INDUSTRY, PRODUCT, NUMBER OF LEARNERS, AND EXPIRATION DATE.

Baker-Mebane Hosiery Mills, Inc., Mebane, North Carolina; Hosiery; Seamless; 6 learners; September 18, 1940.

Orange Knitting Mills, Inc., Orange, Virginia; Hosiery; Full Fashioned; 15 learners; September 18, 1940.

Ely & Walker Dry Goods Company, Paragould, Arkansas; Apparel; Dress and Work Shirts; 50 learners; October 8, 1940.

Euclid Garment Company, Inc., Marion, Ohio; Apparel; Jackets, Pants, and Shirts; 5 learners; October 24, 1940.

Wentworth Manufacturing Company, 425 Pleasant Street, Fall River, Massachusetts; Apparel; Dresses; 5 percent; October 24, 1940.

Signed at Washington, D. C., this 10th day of June 1940.

GUSTAV PECK,
Authorized Representative
of the Administrator.

[F. R. Doc. 40-2316; Filed, June 10, 1940; 11:53 a. m.]

SECURITIES AND EXCHANGE COMMISSION.

[File No. 59-13]

IN THE MATTER OF STANDARD POWER AND LIGHT CORPORATION, RESPONDENT

NOTICE OF AND ORDER FOR HEARING

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 5th day of June, A. D. 1940.

The Commission having examined the corporate structure of Standard Power and Light Corporation, a registered holding company, and its subsidiary companies, the relationships among the companies in the holding company system of Standard Power and Light Corporation, the character of the interests thereof and the properties owned or controlled thereby, and the Commission having reasonable grounds to believe that:

1. Standard Power and Light Corporation is a registered holding company incorporated under the laws of the State of Delaware and maintains principal offices for the doing of business in the City of Jersey City, State of New Jersey.

2. As of December 31, 1939, Standard Power and Light Corporation had outstanding 34,054 shares of Preferred Stock $7 Cumulative without par value 1,320,000 shares of Common Stock having a par value of $1.00 per share and 440,000 shares of Common Stock, Series B, without par value. Dividends on the said Preferred Stock are cumulative, and have accumulated to the extent of $41.07 per share, aggregating $1,398,484.27, representing more than five and three quarter years dividends as of December 31, 1939. Holders of the said Preferred Stock have no right to vote in the election of directors. The said Common Stock, Series B, rank pari passu as to dividend and dissolution rights; the holders of the Common Stock are entitled to elect the smallest number constituting a majority of directors of Standard Power and Light Corporation, and the holders of the Common Stock, Series B, are entitled to elect the largest number constituting a minority.

3. In February, 1927 Standard Power and Light Corporation issued $24,000,000 of 6% Gold Debentures maturing February 1, 1957, of which $22,200,900 principal amount was outstanding on December 31, 1939 (after deducting debentures held by Standard Gas and Electric Company). In January, 1930 Standard Gas and Electric Company assumed liability thereon.

4. Standard Power and Light Corporation owns 1,160,000 shares of the Common stock of Standard Gas and Electric Company, constituting 53.64% of the outstanding shares of said common stock; 40,751.3 shares of the $7 Prior Preference Stock of Standard Gas and Electric Company, constituting 11.06% of the outstanding shares thereof and 8.70% of the aggregate outstanding Prior Preference Stock; and $306,000 principal amount of Notes and Debentures of Standard Gas and Electric Company, constituting 0.43% of the amount thereof outstanding as of December 31, 1939, inclusive, of the debentures issued by Standard Power and Light Corporation and assumed by Standard Gas and Electric Company. The holder of the common stock of Standard Gas and Electric Company are entitled to elect four directors thereof; the holders of the $4 Junior Preferred Stock, two directors; the holders of the Prior Preference Stock, of which there are outstanding 368,348 shares of $7 Prior Preference Stock and

100,000 shares of $6 Prior Preference Stock, two directors; and the holders of the notes and debentures of Standard Gas and Electric Company, including the debentures issued by Standard Power and Light Corporation and assumed by Standard Gas and Electric Company, one director.

5. Standard Power and Light Corporation owns 1,267.65 shares constituting 0.51% of the outstanding shares of Common stock of Mountain States Power Company, a subsidiary of Standard Gas and Electric Company.

6. Standard Power and Light Corporation owns 9,750 shares constituting 0.20% of the outstanding shares of common stock of Philadelphia Company, a registered holding company and a subsidiary of Standard Gas and Electric Company.

7. Standard Power and Light Corporation owns 23,570 shares constituting 21.43% of the outstanding shares of Class A common stock of Southern Colorado Power Company, a subsidiary of Standard Gas and Electric Company.

8. Standard Power and Light Corporation owns 1,980 shares constituting 0.66% of the outstanding shares of Class B common stock of Louisville Gas and Electric Company (Delaware), a subsidiary of of Standard Gas and Electric Company.

9. Standard Power and Light Corporation is a holding company with respect to Standard Gas and Electric Company, which latter company has subsidiary companies which are holding companies.

10. The continued existence of Standard Power and Light Corporation unduly and unnecessarily complicates the structure of the Standard Power and Light Corporation holding-company system.

11. The continued existence of Standard Power and Light Corporation unfairly and inequitably distributes voting power among security holders of the Standard Power and Light Corporation holding-company system.

12. The corporate structure of Standard Power and Light Corporation unduly and unnecessarily complicates the structure of the Standard Power and Light Corporation holding-company system.

13. The corporate structure of Standard Power and Light Corporation unfairly and inequitably distributes voting power among security-holders of the Standard Power and Light Corporation holding-company system.

Wherefore it is ordered, That pursuant to section 11 (b) (2) of the Public Utility Holding Company Act of 1935, a hearing shall be held at the offices of the Securities and Exchange Commission, 1778 Pennsylvania Avenue NW., Washington, D. C., at 10:00 A. M. on the 8th day of July 1940 (or such later date as the Commission prior thereto may fix by supplementary notice), to determine (1) whether the allegations of paragraphs numbered 1 through 13 hereof, inclusive, are true and accurate; (2) whether it is necessary to discontinue the existence of Standard Power and Light Corporation; (3) what steps are necessary for the discontinuance of the existence of Standard Power and Light Corporation; (4) what further action, if any, is necessary and shall be required to be taken by Standard Power and Light Corporation to insure that the corporate structure or continued existence of Standard Power and Light Corporation do not unduly or unnecessarily complicate the structure, or unfairly or inequitably distribute the voting power among security-holders of the Standard Power and Light Corporation holding-company system; and

It is further ordered, That William W. Swift or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (e) of said Act and to a trial examiner under the Commission's Rules of Practice; and

It is further ordered, That the Secretary of the Commission shall serve notice of the hearing aforesaid by mailing a copy of this order by registered mail to Standard Power and Light Corporation, not less than 20 days prior to the date hereinbefore fixed as the date of hearing; and that notice of said hearing is hereby given to Standard Power and Light Corporation, the security-holders thereof, and to all other persons, including Standard Gas and Electric Company and the subsidiaries thereof, the security-holders and consumers of said companies, all States, municipalities and political subdivisions of States within which are located any of the utility assets of the Standard Power and Light Corporation holding-company system or under the laws of which any of said companies are incorporated, all State commissions, State securities commissions and all agencies, authorities or instrumentalities of one or more States, municipalities, or other political subdivisions having jurisdiction over Standard Power and Light Corporation or any of said companies or over any of the businesses, affairs or operations of any of them; that such notice shall be given further by a general release of the Commission, distributed to the press and mailed to the mailing list for releases issued under the Public Utility Holding Company Act of 1935; and that further notice be given to all persons by publication of this order in the FEDERAL REGISTER not later than twenty days prior to the date hereinbefore fixed as the date of hearing; and

It is further ordered, That any person proposing to intervene in these proceedings shall file with the Secretary of the Commission on or before the 1st day of July, his request or application therefor as provided by Rule XVII of the Rules of Practice.

By the Commission.

FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 40-2277; Filed, June 7, 1940; 12:05 p. m.]

[File No. 70-50]

IN THE MATTER OF GENERAL UTILITY INVESTORS CORPORATION

NOTICE OF AND ORDER FOR HEARING

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 6th day of June, A. D. 1940.

A declaration pursuant to the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named party;

It is ordered, That a hearing on such matter under the applicable provisions of said Act and the rules of the Commission thereunder be held on June 18, 1940, at ten o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue, NW., Washington, D. C. On such day the hearing-room clerk in room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Robert P. Reeder or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to a trial examiner under the Commission's Rules of Practice.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before June 15, 1940.

The matter concerned herewith is in regard to the issuance and sale by declarant to The Chase National Bank of the City of New York of its one year secured promissory note in the principal amount of $3,750,000, bearing interest at the rate of 3½% per annum, and payable $500,000 on or before February 20, 1941, and the balance a year from date.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 40-2290; Filed, June 7, 1940; 12:05 p. m.]

[File Nos. 7-453, 7-454, 7-455, 7-456, 7-457, 7-458, 7-459]

IN THE MATTER OF APPLICATIONS BY THE NEW YORK CURB EXCHANGE TO EXTEND UNLISTED TRADING PRIVILEGES TO AMERICAN GAS & ELECTRIC COMPANY SINKING FUND 2¾% DEBENTURES DUE JANUARY 1, 1950; SINKING FUND 3½% DEBENTURES DUE JANUARY 1, 1960; SINKING FUND 3¾% DEBENTURES DUE JANUARY 1, 1970; 4¾% CUMULATIVE PREFERRED STOCK PAR VALUE $100; PUBLIC SERVICE COMPANY OF COLORADO FIRST MORTGAGE BONDS, 3½% SERIES DUE DECEMBER 1, 1964; 4% SINKING FUND DEBENTURES DUE DECEMBER 1, 1949; THE WASHINGTON WATER POWER COMPANY FIRST MORTGAGE BONDS, 3½% SERIES DUE JUNE 1, 1964

ORDER CHANGING TRIAL EXAMINER

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 6th day of June, A. D. 1940.

The New York Curb Exchange, pursuant to Section 12 (f) of the Securities Exchange Act of 1934, and Rule X-12F-1 promulgated thereunder, having made application to the Commission to extend unlisted trading privileges to the above-mentioned securities; and

The Commission having ordered that a hearing be held in this matter on June 11, 1940, in Washington, D. C., before Charles S. Moore, an officer of the Commission; and

It being found necessary to change the trial examiner in this proceeding:

It is ordered, that Robert P. Reeder, an officer of the Commission, be and he hereby is designated as the officer of the Commission to preside at such hearing in lieu of the officer heretofore designated.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 40-2306; Filed, June 10, 1940; 11:32 a. m.]

[File No. 31-379]

IN THE MATTER OF H. M. BYLLESBY & COMPANY

ORDER RESCINDING AND VACATING ORDER UNDER PUBLIC UTILITY HOLDING COMPANY ACT OF 1935—SECTIONS 2 (A) (7), 3 (A) (3) AND 3 (A) (5)

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 7th day of June, A. D. 1940.

The Commission having entered an order herein on the third day of June, 1940, denying the application of H. M. Byllesby & Company;

It is ordered, That the said order of the Commission denying the applications of H. M. Byllesby & Company be, and it hereby is rescinded and vacated.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 40-2307; Filed, June 10, 1940; 11:32 a. m.]

[File No. 31-420]

IN THE MATTER OF THE BYLLESBY CORPORATION

ORDER RESCINDING AND VACATING ORDER UNDER PUBLIC UTILITY HOLDING COMPANY ACT OF 1935—SECTIONS 2 (A) (7), 3 (A) 3 AND 3 (A) (5)

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 7th day of June, A. D. 1940.

The Commission having entered an order herein on the third day of June, 1940, denying the applications of The Byllesby Corporation;

It is ordered, That the said order of the Commission denying the applications of The Byllesby Corporation be, and it hereby is rescinded and vacated.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 40-2308; Filed, June 10, 1940; 11:32 a. m.]

[File No. 59-3]

IN THE MATTER OF ELECTRIC BOND AND SHARE COMPANY AND ITS SUBSIDIARY COMPANIES, RESPONDENTS

ORDER DENYING PRAYER

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 7th day of June, A. D. 1940.

The Commission having issued its Notice of and Order for Hearing in the within matter pursuant to Section 11 (b) (1) of the Public Utility Holding Company Act of 1935; Respondents having on the 4th day of May 1940 filed their answer containing a prayer that the Commission withdraw said Notice and Order or enter an order dismissing the proceeding; and the Commission having duly considered said prayer and having this day filed its Memorandum Opinion in connection therewith:

It is ordered, That said prayer for withdrawal of the Notice and Order or dismissal of the proceeding be, and the same hereby is, denied.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 40-2309; Filed, June 10, 1940; 11:32 a. m.]

[File No. 59-12]

IN THE MATTER OF ELECTRIC BOND AND SHARE COMPANY, AMERICAN POWER & LIGHT COMPANY, PACIFIC POWER & LIGHT COMPANY, ELECTRIC POWER & LIGHT CORPORATION, UTAH POWER & LIGHT COMPANY, NATIONAL POWER & LIGHT COMPANY, AMERICAN & FOREIGN POWER COMPANY, INC., EBASCO SERVICES INCORPORATED, RESPONDENTS

ORDER POSTPONING HEARING

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 7th day of June, A. D. 1940.

The Commission having issued its Notice of and Order for Hearing in the within matter pursuant to Section 11 (b) (2) of the Public Utility Holding Company Act of 1935; said Notice of and Order for Hearing having specified the 10th day of June 1940 as the date of hearing; Respondents having filed on the 31st day of May 1940 their "Application with Respect to Notice of and Order for Hearing pursuant to Section 11 (b) (2) of the Public Utility Holding Company Act of 1935"; and the Commission having duly considered said application and having filed its Memorandum Opinion in connection therewith:

It is ordered (1) That the date of hearing be, and the same hereby is, postponed for one week until the 17th day of June 1940; (2) that such hearing shall be limited initially to the issue of whether it is necessary to discontinue the existence of American Power & Light Company, Electric Power & Light Corporation, National Power & Light Company, and American & Foreign Power Company Inc., or any of them, in order to insure that the structure of the holding company system of Electric Bond and Share Company shall not be unduly or unnecessarily complicated and that voting power shall not be unfairly or inequitably distributed among security holders of such system; jurisdiction being reserved to consider and dispose of all other issues presented by the Notice of and Order for Hearing herein in appropriate manner; and (3) that in all other respects the said Application filed by Respondents be, and the same hereby is, denied.

By the Commission.

[SEAL] FRANCIS P. BRASSOR, *Secretary.*

[F. R. Doc. 40-2310; Filed, June 10, 1940; 11:32 a. m.]

[File No. 70-72]

IN THE MATTER OF ST. AUGUSTINE GAS COMPANY AND AMERICAN GAS AND POWER COMPANY

NOTICE OF AND ORDER FOR HEARING

At a regular session of the Securities and Exchange Commission held at its

office in the City of Washington, D. C., on the 8th day of June, A. D. 1940.

A joint application and declaration pursuant to the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named parties;

It is ordered, That a hearing on such matter under the applicable provisions of said Act and the rules of the Commission thereunder be held on June 25, 1940, at 10:00 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue, NW., Washington, D. C. On such day the hearing-room clerk in room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

It is further ordered, That Robert P. Reeder or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to a trial examiner under the Commission's Rules of Practice.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before June 20, 1940.

The matter concerned herewith is in regard to the following proposed transactions:

1. The sale by St. Augustine Gas Company of $125,000 principal amount of First Mortgage 4½% Sinking Fund Bonds, Series A, due 1965, at the principal amount thereof plus accrued interest, to Wilmington Savings Fund Society, Wilmington, Delaware.

The Florida National Bank of Jacksonville will act as trustee under the indenture securing the proposed bonds.

The indenture securing the proposed bonds will provide for a sinking fund to retire $5,000 principal amount of bonds annually at par, except when net additions to property in excess of a prescribed amount become a credit on the sinking fund obligation.

A fee of $1,250 will be paid W. H. Bell & Co., Incorporated, Philadelphia, Pennsylvania, for its services in negotiating the sale of the proposed bonds. Other expenses (including counsel fees of $2,000) are estimated at $3,750.

2. The sale by St. Augustine Gas Company to American Gas and Power Company of 271 shares of the former's Common Stock (par $100) at $100 per share, payment to be credited on a note of the issuer to American Gas and Power Company as hereinafter described.

3. The pledge by American Gas and Power Company of said 271 shares of Common Stock of St. Augustine Gas Company with the trustee for the Debenture Agreement securing the pledger's Secured Debentures, due August 1, 1953 ($10,432,000 principal amount outstanding as of March 31, 1940), as required by said Debenture Agreement.

4. The payment by St. Augustine Gas Company of its 6% Demand Notes in the aggregate amount of $82,000 held by American Gas and Power Company, such payment to be made in cash to the extent of $54,900 and by the issuance as aforesaid of 271 shares of Common Stock at $100 per share (par) to the extent of $27,100.

5. The redemption by St. Augustine Gas Company at $120 per share of 543 shares of its 8% Cumulative Preferred Stock, being all shares outstanding. Following such redemption, the issuer's charter will be amended to eliminate all provisions relating to Preferred Stock.

Upon consummation of the foregoing transactions St. Augustine Gas Company's outstanding securities will consist of $125,000 principal amount of said bonds and $277,100 of Common Stock (2,771 shares of $100 par value each). Earned surplus as of April 30, 1940 will be $62,053.

American Gas and Power Company is a registered holding company, a subsidiary of Community Gas and Power Company, also a registered holding company. All outstanding common stock of St. Augustine Gas Company is owned by American Gas and Power Company.

Applicants have designated Sections 7 and 10 and Rules U-12C-1 and U-12D-1 of the Act as applicable to the proposed transactions.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 40-2311; Filed, June 10, 1940; 11:33 a. m.]

[File No. 70-74]

IN THE MATTER OF SOUTHEASTERN INVESTING CORPORATION

NOTICE OF AND ORDER FOR HEARING

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 10th day of June, A. D. 1940.

Southeastern Investing Corporation, a subsidiary of a registered holding company, has filed a declaration under the Public Utility Holding Company Act of 1935 concerned with the issue and sale to The Chase National Bank of a promissory note in face amount of $1,100,000, bearing interest at 3½% per annum and maturing one year from date, the declaration also covers the pledge as collateral for said note of securities owned by declarant; it is represented that the new note will be issued to discharge a presently outstanding note of declarant;

It is ordered, That a hearing on such matters under the applicable provisions of said Act and the rules of the Commission thereunder be held on June 24, 1940, in the forenoon of that day at the Securities and Exchange Commission Building, 1778 Pennsylvania Avenue NW., Washington, D. C. On such day the hearing room clerk in Room 1102 will advise as to the room where such hearing will be held.

It is further ordered, That Charles S. Lobingier or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all power granted to the Commission under Section 18 (c) of said Act and to a trial examiner under the Commission's Rules of Practice to continue or postpone said hearing from time to time.

Notice of such hearing is hereby given to such applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before June 17, 1940.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 40-2313; Filed, June 10, 1940; 11:33 a. m.]

[File No. 70-77]

IN THE MATTER OF SOUTHEASTERN ELECTRIC AND GAS COMPANY, SOUTHEASTERN INVESTING CORPORATION, LEXINGTON WATER POWER COMPANY

NOTICE OF AND ORDER FOR HEARING

At the regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 10th day of June, A. D. 1940.

Southeastern Investing Corporation, a subsidiary of a registered holding company, has filed an application seeking approval of a proposed sale by it of $125,000 principal amount of Lexington Water Power Company 5½% Convertible Sinking Fund Debentures, due January 1, 1953 at a price of $87.898 per $100 of debentures plus accrued interest, to the issuer in consideration of a return to applicant by Southeastern Electric and Gas Company, a registered holding company and parent of Southeastern Investing Corporation, of a corresponding amount of Southeastern Investing Corporation's 5% Convertible Obligations due March 1, 1963; Southeastern Invest-

ing Corporation has designated Rule U-12F–1 and Rule U-12C–1 promulgated under the Public Utility Holding Company Act of 1935 as applicable to these proposed transactions;

Lexington Water Power Company, a public utility subsidiary of Southeastern Electric and Gas Company, has filed an application seeking approval of the acquisition by it from Southeastern Investing Corporation of $125,000 5½% Convertible Sinking Fund Debentures due January 1, 1953 at a price of $87.898 per $100 of debentures plus accrued interest, in consideration of a corresponding increase in an open account running from Lexington Water Power Company to Southeastern Electric and Gas Company; Lexington Water Power Company has designated Rule U-12C–1 promulgated under the act as applicable to this transaction;

Southeastern Electric and Gas Company has filed a declaration to effect the following extensions of credit to Lexington Water Power Company: one, to extend credit to Lexington Water Power Company for the purchase price of the debentures which it proposes to acquire from Southeastern Investing Corporation, this being in the form of an increase in the open account running from Lexington Water Power Company to Southeastern Electric and Gas Company and two, to subordinate all indebtedness of Lexington Water Power Company running to Southeastern Electric and Gas Company to the prior payment in full of a promissory note proposed to be issued, on or before July 1, 1940, by Lexington Water Power Company to The Public National Bank and Trust Company in the face amount of $400,000 (such issue and sale appearing to be exempt from Section 6 (a) of the Act by the provisions of Section 6 (b) of said Act). Southeastern Electric and Gas Company has designated Rule U-12B–1 promulgated under the Act as applicable to these proposed credit extensions;

It is ordered, That a hearing on such matters under the applicable provisions of said Act and the rules of the Commission thereunder be held on June 25, 1940 in the forenoon of that day at the Securities and Exchange Building, 1778 Pennsylvania Avenue, NW., Washington, D. C. On such day the hearing room clerk in Room 1102 will advise as to the room where such hearing will be held.

It is further ordered, That Charles S. Lobingier or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all power granted to the Commission under Section 18 (c) of said Act and to a trial examiner under the Commission's Rules of Practice to continue or postpone said hearing from time to time.

Notice of such hearing is hereby given to such applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before June 18, 1940.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,
Secretary.

[F. R. Doc. 40–2312; Filed, June 10, 1940; 11:33 a. m.]